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ABSTRACT

The report examines the Hawaii Department of Education's procedures and criteria in the identification and evaluation of handicapped children, as well as difficulties encountered in recruiting and maintaining qualified special services evaluation personnel. An introductory chapter notes the legislative authority for the study; provisions of Public Law 94-142 (the Education for All Handicapped Childen Act); and the study's methodology (a survey of other states, review of the literature, and interviews with special education administrators). Chapter 2 addresses the identification of handicapped children, noting that Hawaii's percentage of handicapped children served is less than any other state. Eligibility procedures and criteria for special education are discussed in chapter 3. The fourth chapter looks at special services evaluation personnel including multidisciplinary diagnostic teams; it also discusses the personnel shortage problem and problems in recruitment and retention. The last chapter presents recommendations, suggesting, among other things, that the Department of Education: (1) obtain expert consultation in determining whether current identification procedures need to be revised: (2) develop useful identification criteria for specific disability areas; (3) evaluate the validity and appropriateness of tests currently used; and (4) improve salaries of special education personnel. Much of the document consists of exhibits and appendixes including comparisons of Hawaii with other states, relevant Hawaii legislation, and Hawaii's guidelines for identification and evaluation. (DB)

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SPECIAL EDUCATION IN HAWAII — SOME CURRENT PROBLEMS

LEGISLATIVE REFERENCE BUREAU / STATE OF HAWAII / 1989

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15. Establishing a format for, and compiling and publishing an index of, rules adopted under the Administrative Procedure Act.

SPECIAL EDUCATION IN HAWAII — SOME CURRENT PROBLEMS

JUNIE HAYASHI
Researcher

Report No. 6, 1989

Legislative Reference Bureau
State Capitol
Honolulu, Hawaii

FOREWORD

This report was prepared in response to House Resolution No. 281 and Senate Resolution No. 89, S.D. 1, which were adopted during the Regular Session of 1987. The report examines the Department of Education's procedures and criteria in the identification and evaluation of handicapped children, and the difficulties experienced in recruiting and maintaining qualified special services evaluation personnel.

The Bureau extends its sincere appreciation to all of those whose assistance and cooperation made this report possible. Special thanks are extended to the Department of Education's Special Education Section, Student Personnel Services Section, Classified Personnel Management Section, Certificated Personnel Management Section, and special services evaluation personnel, the United States Department of Education, and the Office of Senator Daniel K. Inouye.

Samuel B. K. Chang
Director

June 1989

5

TABLE OF CONTENTS

Page

FOREWORD ii

1. INTRODUCTION 1

House Resolution No. 281 and Senate Resolution No. 89, S.D. 1 1
Public Law 94-142 1
Methodology 4
Organization of the Report 4

2. IDENTIFICATION 6

Identification of Handicapped Children 6
Controversy Over Percentage of Handicapped Children Identified 7
Hawaii's Percentage of Handicapped Children 8

3. ELIGIBILITY FOR SPECIAL EDUCATION 13

Evaluation of Handicapped Children 13
Handicapping Conditions 13
Evaluation Procedures 15
Eligibility Criteria 17

4. QUALIFIED SPECIAL SERVICES EVALUATION PERSONNEL 20

Multidisciplinary or Diagnostic Teams 20
Shortage of Qualified Special Services Personnel 21
Problems in Recruitment and Retention 22
The Department of Education's Response to the Shortage Problem 25

5. FINDINGS AND RECOMMENDATIONS 28

Identification 28
Eligibility of Special Education 29
Qualified Special Services Evaluation Personnel 30

FOOTNOTES 33

Exhibits

1. The Special Education Process 3

2. Percentage of Children Served Under Chapter 1 of ECIA (SOP) and EHA-Based Upon Estimated Resident Population 9

3. State-to-State Differences in Percentage of Children Served Under Chapter 1 and EHA-B 11

Page

4. Sources of Information Used in the Evaluation Process 14

5. Average Time Lag in Days Between Intake and Eligibility by Handicapping Condition for the School Year 1987-88................ 16

Appendices

A. House Resolution No. 281.. 37

B. Senate Resolution No. 89, S.D. 1.................................... 39

C. Chapter 8-36, Hawaii Administrative Rules 41

D. Hawaii, Department of Education, Program Standards and Guidelines for Special Education and Special Services in Hawaii 64

E. Hawaii, Department of Education, Guidelines for Identification and Screening Processes, Eligibility Criteria 74

F. Hawaii, Department of Education, Programs and Services for the Emotionally Handicapped and Tennessee, Department of Education Eligibility Criteria for Serious Emotional Disturbance 132

G. Special Services Personnel Memorandum of Understanding 138

Chapter 1

INTRODUCTION

House Resolution No. 281 and Senate Resolution No. 89, S.D. 1

House Resolution No. 281 and Senate Resolution No. 89, S.D. 1 (1987) (see Appendices A and B), requested the Legislative Reference Bureau (Bureau) to study the state Department of Education's procedures for identifying special education students, the criteria used by diagnostic teams in determining the certification of special education students, and the difficulties encountered in attracting and maintaining qualified special services evaluation personnel.

The resolutions observed that Public Law 94-142 mandates appropriate and timely evaluations of students suspected of having handicapping conditions and that chapter 8-36, Hawaii Administrative Rules, specifies mandatory timelines for evaluation of Hawaii students. The resolutions expressed concern that the Department has failed to meet those mandatory guidelines and that Hawaii was ranked lowest among all states and the District of Columbia in the percentage of students identified as handicapped, indicating deficiencies in the identification procedures or certification criteria.

Public Law 94-142

Public Law 94-142 (PL 94-142), the Education for All Handicapped Children Act was enacted in 1975. The Act applies to all handicapped children age 3 to 21, except for children age 3 to 5 and 18 to 21 in states where the requirement is inconsistent with state law or practice or court order.[1] The Act has four major purposes:[2]

(1) To assure that all handicapped children have available to them a free appropriate public education which emphasizes special education and related services to meet their unique needs;

(2) To assure that the rights of handicapped children and their parents or guardians are protected;

(3) To assist states and localities to provide for the education of all handicapped children; and

(4) To assess and assure that effectiveness of efforts to educate handicapped children.

According to the Act, schools must fulfill certain requirements in order to ensure that handicapped children receive the rights they have been guaranteed.

Thus, it requires that specialists be called upon to evaluate the children's special needs and determine the most appropriate

> educational environment for these children; that an individualized education program be developed for each child identified as needing special education or related services; that the schools notify parents of findings concerning their children and include parents in the process of making decisions regarding how and in what circumstances their children will be educated; and that an opportunity for a hearing be provided to a parent who is dissatisfied with the school's decision. Further, the Act asks that, to the extent that it is in the child's best interest, each handicapped child be educated with nonhandicapped children.[3]

While the process by which a child with a suspected handicapping condition is identified, evaluated, and provided with an educational program varies from state to state and in most states, from district to district, federal regulations require a general format.[4] (See Exhibit 1.)

Identification. Identification is an important step in the special education process because it determines who will be considered eligible for special education and who will not. A child must be identified before any handicapping condition can be detected. The earlier a handicapping condition is detected, the earlier a program can be formulated to deal with the handicapping condition and help keep its adverse effects to a minimum.[5] PL 94-142 requires that states and local school districts develop "child-find" programs to identify all children from birth to age 21 within their geographical areas who may have handicapping conditions.[6]

States and local school districts must make active efforts to inform the public of the availability of evaluations and educational services for children with handicapping conditions.[7] Children may be identified by parents, teachers, principals, counselors, nurses, doctors, social workers, among others.

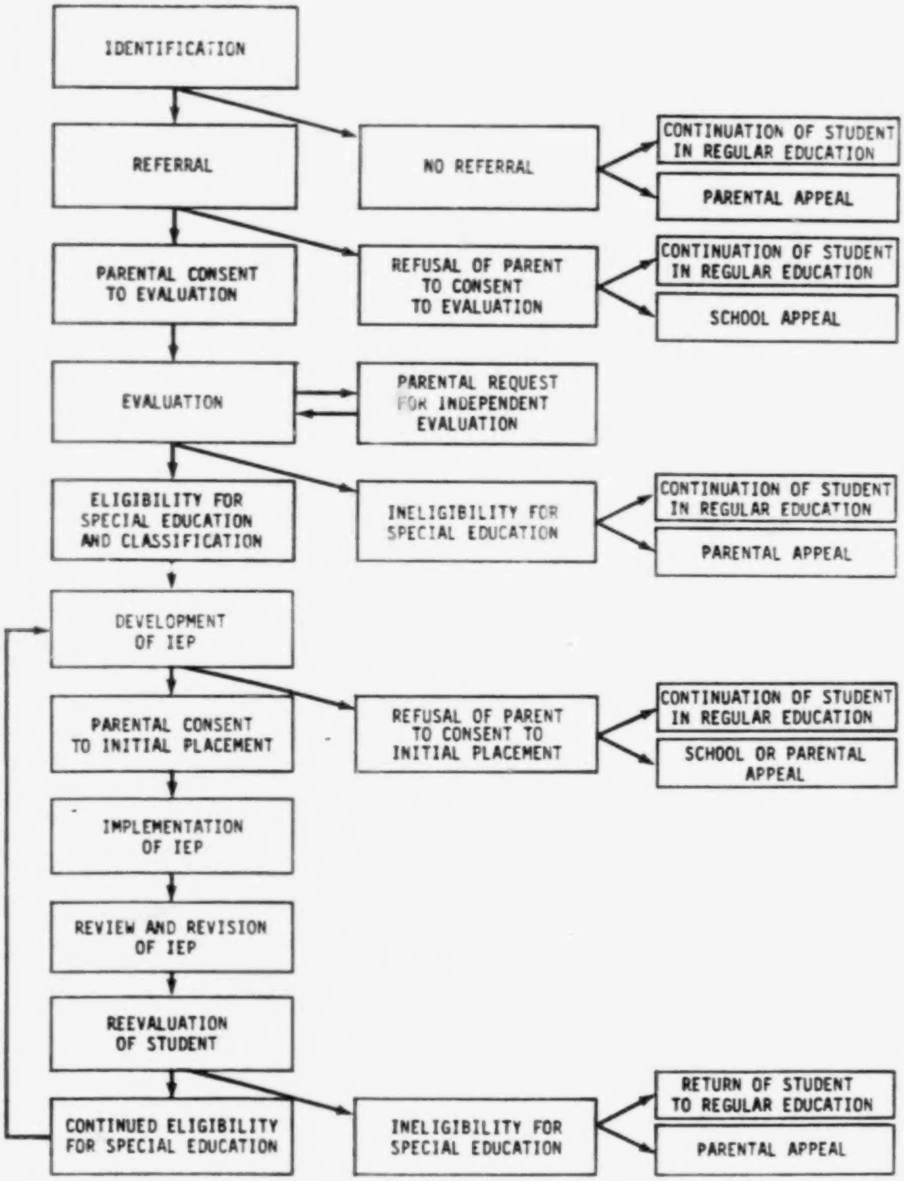
Referral. Once the children who are experiencing problems which adversely affect their educational performance are identified, the schools are notified and school officials determine which children will be referred for evaluation. Children who are not referred for evaluation may still be eligible for other services such as remedial programs or counselor assistance.

Evaluation. An evaluation must be conducted by a multidisciplinary team using a variety of information sources.[8] The ultimate goal of an evaluation is to provide information that can be used to determine whether a child is eligible for special education or by meeting the criteria for inclusion in one of the handicapping conditions.[9] The information is also used to develop each child's Individual Educational Program (IEP) and what type of special education would be most beneficial in helping that child overcome the handicapping condition.[10]

Eligibility and Classification. Based on the evaluation, the multidisciplinary team determines whether the child qualifies for special education and what would be the most appropriate program to address that

Exhibit 1

THE SPECIAL EDUCATION PROCESS


IDENTIFICATION
REFERRAL
NO REFERRAL
CONTINUATION OF STUDENT IN REGULAR EDUCATION
PARENTAL APPEAL
PARENTAL CONSENT TO EVALUATION
REFUSAL OF PARENT TO CONSENT TO EVALUATION
CONTINUATION OF STUDENT IN REGULAR EDUCATION
SCHOOL APPEAL
EVALUATION
PARENTAL REQUEST FOR INDEPENDENT EVALUATION
ELIGIBILITY FOR SPECIAL EDUCATION AND CLASSIFICATION
INELIGIBILITY FOR SPECIAL EDUCATION
CONTINUATION OF STUDENT IN REGULAR EDUCATION
PARENTAL APPEAL
DEVELOPMENT OF IEP
PARENTAL CONSENT TO INITIAL PLACEMENT
REFUSAL OF PARENT TO CONSENT TO INITIAL PLACEMENT
CONTINUATION OF STUDENT IN REGULAR EDUCATION
SCHOOL OR PARENTAL APPEAL
IMPLEMENTATION OF IEP
REVIEW AND REVISION OF IEP
REEVALUATION OF STUDENT
CONTINUED ELIGIBILITY FOR SPECIAL EDUCATION
INELIGIBILITY FOR SPECIAL EDUCATION
RETURN OF STUDENT TO REGULAR EDUCATION
PARENTAL APPEAL

Source: Kenneth Shore, The Special Education Handbook: A Comprehensive Guide for Parents and Educators, 1986, pp. 16-17.

child's educational needs. In most states, a child is declared eligible for special education when:[11]

(1) The child is determined to have a specific educationally handicapping condition, resulting in the assignment of a formal classification (e.g., speech impairment); and

(2) Special education is determined to be necessary to meet the child's educational needs.

PL 94-142 provides the guidelines within which the individual states must work. PL 94-142 is permanent legislation that does not have to be renewed periodically. Each state was required to establish its own regulations for implementing its legislation. Hawaii's implementation guidelines and procedures were adopted by the state Department of Education in 1986 as chapter 8-36, Hawaii Administrative Rules, entitled "Provision of a Free Appropriate Public Education for Exceptional Children Who Are Handicapped". (See Appendix C.)

Methodology

To obtain information from other states regarding the difficulties found in recruiting and maintaining qualified special services evaluation personnel, a survey was prepared and sent to the chief state school officers of all states, as well as the District of Columbia, American Samoa, Guam, Puerto Rico, the Northern Mariana Islands, and the Virgin Islands.

The Bureau reviewed current literature on special education and obtained information from governmental and private agencies. Interviews were conducted with administrators and personnel of the Special Education Section, Student Personnel Services Section, Classified Personnel Management Section, and Certificated Personnel Management Section of the state Department of Education.

Organization of the Report

This report is organized as follows:

Chapter 1 introduces the report.

Chapter 2 discusses the procedures used in identifying special education students.

Chapter 3 discusses the criteria used in certifying eligibility for special education.

Chapter 4 discusses the difficulties found in recruiting and maintaining qualified special services evaluation personnel.

Chapter 5 contains findings and recommendations, followed by appendices.

Chapter 2

IDENTIFICATION

Identification of Handicapped Children

Identification is an important step in the special education process because it determines whether or not a child will be considered eligible for special education. Identification can be the difference between early or late detection of a learning problem; early identification and educational intervention can keep a learning problem from becoming more serious and minimize frustration later.[1] Generally, two types of children need to be identified, those who are not in school and are not receiving any special education, and those who are in school and are having problems with their current placement.

In order to receive federal funds, a state must submit its program plan to the United States Department of Education.[2] Basically, the program plan is the state's assurance that it is in compliance with the provisions of the federal law.[3] Federal regulations provide a set of guidelines within which states must work to develop their own identification policies and procedures. A state must include in its program plan, the policies and procedures by which it will ensure that:[4]

> (1) All children who are handicapped, regardless of the severity of their handicap, and who are in need of special education and related services are identified, located, and evaluated; and
>
> (2) A practical method is developed and implemented to determine which children are currently receiving needed special education and related services and children which are not currently receiving needed special education and related services.

Hawaii summarizes its own child identification policy and procedures in its program plan, Fiscal Years 1988-1990 state plan for Part B of the Handicapped Act as amended by Public Law 94-142. A review of the policy and procedures indicates that Hawaii closely tracks the federal regulations. In brief, Hawaii's policy and procedures outline:[5]

(1) The responsible agencies for the identification, location, and evaluation of handicapped children.

(2) The activities to be carried out during the school year, including:

  (a) Operation Search, a public awareness campaign and general media blitz designed to identify, locate, and evaluate unserved handicapped children.

  (b) Services provided by the Department of Education in conjunction with the Department of Health and Department of

Social Services and Housing (now the Department of Human Services) which are necessary to identify, locate and evaluate handicapped children.

(c) Ongoing evaluations of referrals on any child suspected of being handicapped.

(3) The process which monitors child identification procedures to provide necessary information on the number and type of handicapped children, and the effectiveness of the procedures.

(4) The description of the method used by the State to determine which children are receiving special education and related services and which are not.

(5) The description of procedures that indicate that child identification, location, and evaluation is statewide and on an ongoing basis throughout the year.

In addition, the Program Standards and Guidelines for Special Education and Special Services in Hawaii list the state standards for identification and screening processes. (See Appendix D.) Moreover, each handicapping condition has its own guidelines for identification. (See Appendix E.) States must comply with federal regulations, but are given the responsibility to establish their own policies and procedures. Thus, each state would have different policies and procedures. A comparison of the different states' identification policies and procedures would be uninformative, however, because the policies and procedures are purposefully broad to allow administrators flexibility and discretion in implementation. At most, a comparison could determine whether each state was in compliance with federal regulations. Unless the comparison was conducted by experts in special education, it would be extremely difficult to make any valid and meaningful comparisons based upon more than 50 different groups of policies and procedures.

Controversy Over Percentage of Handicapped Children Identified

In 1981, the United States General Accounting Office (GAO) completed a report which pointed out problems in programs administered by the United States Department of Education under PL 94-142. The GAO reviewed 10 states and discovered major problems regarding program operation and educational opportunities for handicapped children. A major part of the report focused on the controversy over the number of children identified as needing special services and its effects on the children actually served.

Before PL 94-142 was enacted, the Office of Special Education and Rehabilitative Services (OSE) estimated that the number of handicapped children, age 6 to 19, in the United States needing special education services was about 12 per cent of the nation's school-age population:[6]

Handicapping Condition	Prevalence
Visually handicapped	0.100
Deaf	0.075
Hard of hearing	0.500
Speech handicapped	3.500
Crippled and other health impaired	0.500
Emotionally disturbed	2.000
Mentally retarded	2.300
Learning disabled	3.000
Multiple handicapped	0.060
TOTAL	12.035

Source: U.S., General Accounting Office, Unanswered Questions on Educating Handicapped Children in Local Public Schools, 1981, p. 10.

The Congress relied on the OSE estimates in considering the need for PL 94-142 and used the 12 per cent estimate to develop a major control element in the entitlement formula.[7] The number of handicapped children for each state may be no greater than 12 per cent of its total school-age population, age 5 to 17.[8]

The GAO report stated that the OSE's estimates of handicapped children were questionable and unreliable.[9] The GAO recommended that the 12 per cent prevalence estimate should not be used, at least temporarily, as a basis for encouraging states to increase the number of handicapped children counted and served.[10] The United States Department of Education disagreed with the GAO and stated that there were no data to justify revising the 12 per cent estimate, there were reasons to believe that state and local educational agencies were not doing all that they could to identify handicapped children, and that the OSE continued to believe that 12 per cent was a useful general guide in determining whether all handicapped children were being served.[11] The Department further stated that its comment on the GAO's report, "...does not mean that a participation rate below 12% will be taken as prima facie evidence of noncompliance. In states in which the prevalence rates are substantially below 12%, the typical OSE response will continue to be the careful scrutiny of child identification and counting procedure. In fact, the OSE places equivalent emphasis on the States procedural safeguards to prevent misidentification. In one instance, the OSE discovery of misidentification resulted in 20,000 children being removed from the child count."[12]

Hawaii's Percentage of Handicapped Children

The percentages of handicapped children identified and served for each of the 50 states and the District of Columbia were determined from data provided by the United States Department of Education. The figures were

Exhibit 2

PERCENTAGE OF CHILDREN SERVED UNDER CHAPTER 1 OF ECIA (SOP) AND EHA-B BASED UPON ESTIMATED RESIDENT POPULATION

STATE	PERCENT YEARS 1982-83	PERCENT YEARS 1983-84	PERCENT YEARS 1984-85	PERCENT YEARS 1985-86	PERCENT YEARS 1986-87
ALABAMA	6.52%	6.97%	7.37%	7.51%	7.58%
ALASKA	6.10%	6.86%	6.76%	7.00%	7.14%
ARIZONA	5.87%	5.91%	5.85%	5.65%	5.63%
ARKANSAS	6.50%	6.97%	6.87%	6.78%	6.97%
CALIFORNIA	5.09%	5.13%	5.17%	5.26%	5.31%
COLORADO	4.55%	4.97%	5.09%	5.27%	5.47%
CONNECTICUT	7.05%	7.56%	7.70%	7.75%	7.77%
DELAWARE	6.14%	8.40%	8.40%	8.76%	8.73%
DISTRICT OF COLOMBIA	1.19%	4.44%	4.71%	5.01%	4.87%
FLORIDA	5.48%	5.90%	6.06%	6.27%	6.46%
GEORGIA	6.10%	6.08%	5.67%	5.15%	5.06%
HAWAII	4.00%	4.14%	3.97%	3.87%	3.82%
IDAHO	5.44%	5.58%	5.55%	5.75%	5.79%
ILLINOIS	6.52%	7.63%	7.33%	7.31%	7.62%
INDIANA	5.47%	6.17%	6.28%	6.39%	6.64%
IOWA	6.40%	6.67%	6.84%	6.78%	7.01%
KANSAS	5.99%	6.14%	5.92%	5.92%	6.23%
KENTUCKY	6.12%	6.55%	6.64%	6.60%	6.70%
LOUSIANA	5.60%	5.97%	5.67%	5.37%	5.22%
MAINE	7.29%	7.96%	8.12%	8.39%	8.16%
MARYLAND	7.00%	7.32%	7.37%	7.32%	7.44%
MASSACHUSETTS	7.53%	8.74%	8.94%	9.23%	9.62%
MICHIGAN	5.11%	5.71%	5.92%	5.97%	6.04%
MINNESOTA	6.14%	6.43%	6.62%	6.72%	7.00%
MISSISSIPPI	5.79%	6.07%	6.14%	6.25%	6.52%
MISSOURI	6.65%	6.89%	6.86%	6.99%	7.13%
MONTANA	6.08%	6.34%	6.53%	6.28%	6.43%
NEBRASKA	6.29%	6.41%	6.39%	6.49%	6.70%
NEVADA	5.08%	5.47%	5.61%	5.98%	5.92%
NEW HAMPSHIRE	4.25%	5.50%	5.60%	5.70%	5.75%
NEW JERSEY	7.40%	7.98%	8.15%	8.27%	8.56%
NEW MEXICO	5.77%	5.99%	6.17%	6.38%	6.50%
NEW YORK	4.64%	5.68%	5.91%	6.01%	6.16%
NORTH CAROLINA	6.36%	6.75%	6.65%	6.36%	6.11%
NORTH DAKOTA	5.01%	5.64%	5.80%	5.75%	6.17%
OHIO	5.90%	6.32%	6.38%	6.41%	6.51%
OKLAHOMA	6.72%	6.71%	6.72%	6.73%	6.90%
OREGON	5.44%	6.26%	6.43%	6.23%	6.58%
PENNSYLVANIA	5.33%	6.02%	6.12%	6.37%	6.51%
RHODE ISLAND	6.72%	7.06%	7.38%	7.57%	7.75%
SOUTH CAROLINA	6.85%	7.08%	7.11%	7.12%	7.19%
SOUTH DAKOTA	5.28%	5.52%	6.02%	6.37%	6.81%
TENNESSEE	7.48%	7.54%	7.23%	7.02%	7.10%
TEXAS	5.63%	6.03%	5.95%	5.87%	5.92%
UTAH	6.50%	6.82%	6.72%	6.91%	6.95%
VERMONT	4.52%	6.33%	6.57%	6.97%	7.45%
VIRGINIA	5.95%	6.34%	6.38%	6.42%	6.54%
WASHINGTON	4.93%	5.44%	5.49%	5.52%	5.77%
WEST VIRGINIA	7.06%	7.42%	7.76%	8.19%	8.60%
WISCONSIN	4.80%	5.21%	5.34%	5.46%	5.58%
WYOMING	6.23%	7.15%	1.73%	6.58%	6.94%
NATIONAL AVERAGE	5.84%	6.40%	6.35%	6.52%	6.65 *

The figures represent children 0-20 years old served under chapter 1 of ECIA (SOP) and children 3-21 years old served under EHA-B.

Estimated resident populations by state for 3-21 years old.

*The figure given by the OSE is 6.47%. The difference between these two figures may be a result of rounding differences or other undisclosed factors.

Source: U.S., Department of Education, Office of Special Education Programs, Special Services Branch.

calculated by dividing the number of handicapped children age 0 to 21 into the number of estimated children age 3 to 21 for each state. Although this is not the actual formula used to determine the OSE's 12 per cent estimate, this comparison is useful to establish Hawaii's percentage in relation to other states. (See Exhibit 2.) For the school year 1986-1987, the number of handicapped children served under Part B of the Education and Consolidation Improvement Act - State Operated Programs represented 6.47 per cent of the estimated resident population between age 3 to 21 for the 50 states and the District of Columbia.[13]

While the number of handicapped children has steadily increased over the years, the number of handicapped children served in Hawaii appears to have decreased. The difference between the percentage of children served by each state and the national percentage of 6.47 is shown in Exhibit 3. Hawaii served 3.82, proportionately far fewer children than the national percentage. In addition, in 3 of the 5 years observed, Hawaii had been ranked last of the 50 states and the District of Columbia for the percentage of handicapped children identified and served. In the years 1982-1983 and 1985-1986, the District of Columbia and Wyoming, respectively, had the lowest percentage of handicapped children. However, a closer inspection of the data over the years indicates that this outcome is a result of computer errors and Hawaii has had in fact identified and served the lowest percentage of handicapped children in the nation.

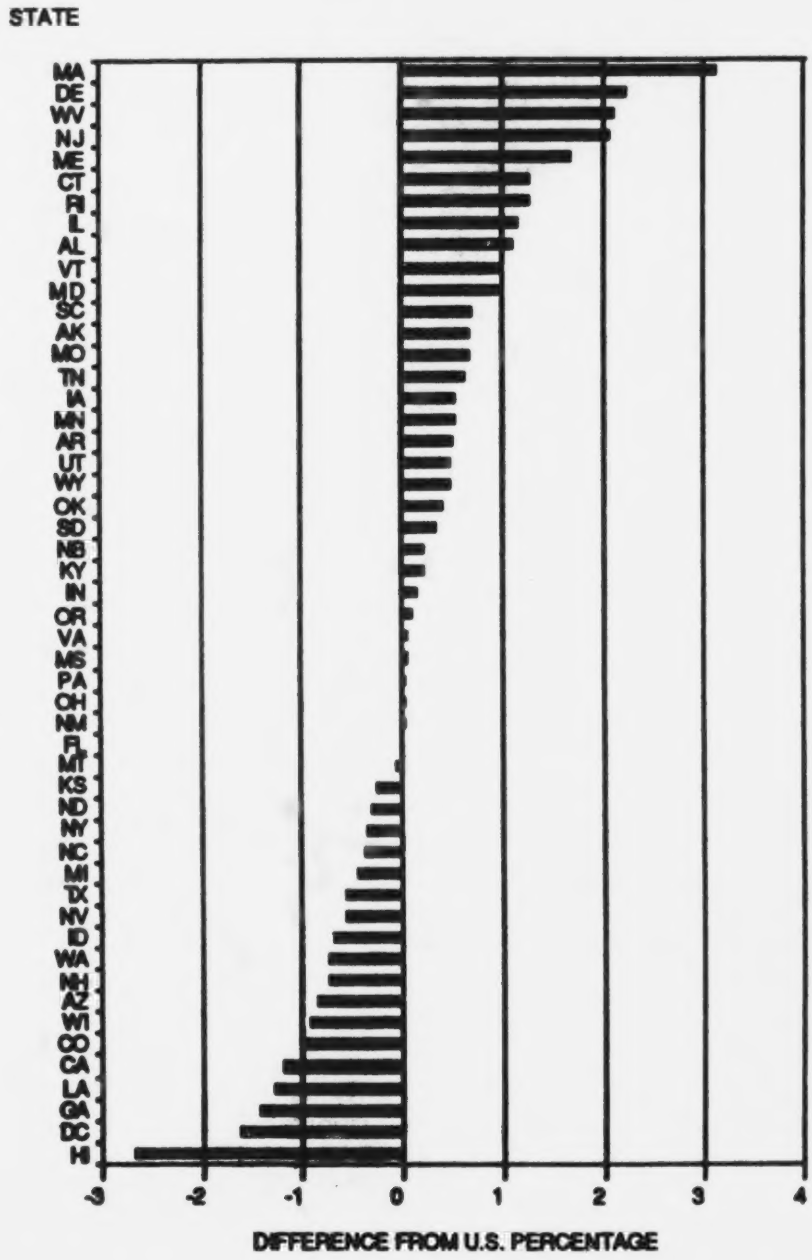
A class action law suit has been filed against the Department of Education and the Board of Education by several parents of handicapped children. The suit alleges, among other claims, that the State has violated federal and state law and denied handicapped children a free and appropriate education by failing to locate and identify these children.[14]

Although Hawaii has a low percentage of handicapped children identified, it does not automatically follow that Hawaii is violating federal regulations or that it will lose federal funding. According to the United States Department of Education's Division of Assistance to States (DAS), a low child count may result in a situation where a state is hesitant to label children as handicapped, but provides services that, if examined closely, would be considered special education and related services.[15] Thus, the state's child count is low, but the children are receiving the necessary services.

The DAS monitors each state once every 4 years.[16] Given the structure of the education system in the United States, it is virtually impossible for each state to be in total compliance with all federal regulations.[17] However, no state has ever been terminated from participating in PL 94-142 since the Act was established.[18] States have had their funding decreased or increased according to changes in the number of students who are properly determined to be handicapped under the law.[19] The DAS works with states to correct existing problems, not to withhold any funds since this may adversely affect children who need special education and related services.[20] According to the DAS, Hawaii has never failed to rectify problems which needed correction and it has never been in danger of losing its federal funding.[21]

Exhibit 3

STATE-TO-STATE DIFFERENCES IN PERCENTAGE OF CHILDREN SERVED UNDER CHAPTER 1 AND EHA-B



NOTE: Number graphed for each state is the percentage of children served in the state minus the percentage for the U.S. (6.47). Percent of children is based on population counts for July 1986 compiled by the U.S. Bureau of the Census.

Source: U.S., Office of Special Education and Rehabilitative Services, Division of Innovation and Development, Office of Special Education Programs, Tenth Annual Report to Congress on the Implementation of the Education of the Handicapped Act, 1988.

Although it seems improbable that Hawaii will lose its federal funding, the last ranking position may be an indication of problems in the implementation of PL 94-142. In the 1981 GAO report, the OSE identified several factors that it believed could have caused low percentages of handicapped children:[22]

(1) Problems with state and local education agency data collection and processing procedures.

(2) Inadequate or inefficient child diagnostic and evaluation capability.

(3) Varying definitions used by the states to identify handicapped children.

(4) Inadequate special education services at the secondary level.

(5) Unavailability and poor distribution of special education personnel.

(6) Other specific problems common to large urban areas, remote rural areas, or other special populations.

Although the OSE had advocated increasing the number of handicapped children counted of states which were below the 12 per cent estimate, the GAO pointed out that states must be careful to evaluate and classify children so that those who were not eligible were not labeled as handicapped.[23] Overcounting children or improperly labeling them as handicapped could inflate state counts and affect the appropriation and distribution of federal funds.[24] More importantly, children would be erroneously labeled as handicapped, which could have a stigmatizing effect that could be extremely difficult for them to overcome.[25]

In 1985, the OSE prepared the Seventh Annual Report to Congress on the Implementation of the Education of the Handicapped Act. The 1985 report stated that Congress had recognized a need to look beyond the numbers of handicapped children identified and served, and to examine the impact, effectiveness, and costs of the programs and services for handicapped children.[26]

Hawaii needs to be careful in attempting to increase the number of handicapped children counted. It is important to recognize that the goal behind increasing the number of handicapped children identified is to serve all of the children who are in need of special education and related services. Once the children are identified, special services personnel, teachers, and facilities must be available to serve these children and provide adequate and appropriate educational programs and services. The ultimate goal should not be on the numbers of children identified and served, but the quality of the services which are received by the children.

Chapter 3

ELIGIBILITY FOR SPECIAL EDUCATION

Evaluation of Handicapped Children

Once a child suspected of having a handicapping condition or having problems that interfere with educational performance has been identified, the child is referred for evaluation. Federal regulations require that evaluations be made by a multidisciplinary team or group of persons, including at least one teacher or other specialist with knowledge in the area of the suspected disability.[1] In Hawaii, evaluations are conducted by diagnostic teams made up of special services evaluation personnel.

Evaluation refers to the procedures used to determine "whether a child is handicapped and the nature and extent of the special education and related services the child needs. The term means procedures used selectively with an individual child and does not include basic tests administered to or procedures used with all children in a school, grade, or class."[2]

The primary purpose of the evaluation is to document by means of individual testing whether or not a child meets the criteria for inclusion in one of the handicapping conditions defined in the federal regulations.[3] In addition, the evaluation results are used to determine the child's educational needs in order to develop an appropriate program.[4]

The extent of the evaluation is determined by the nature and severity of the child's problem.[5] "The evaluation may include, but is not limited to: social development study; measures of adaptive behavior; medical examination; medical history and current health status; vision and hearing evaluation; academic history and current functioning; educational evaluation; psychological evaluation; mental health evaluation; language evaluation; direct observation of child's behavior."[6] The different sources of information which are used in the evaluation process are illustrated in Exhibit 4.

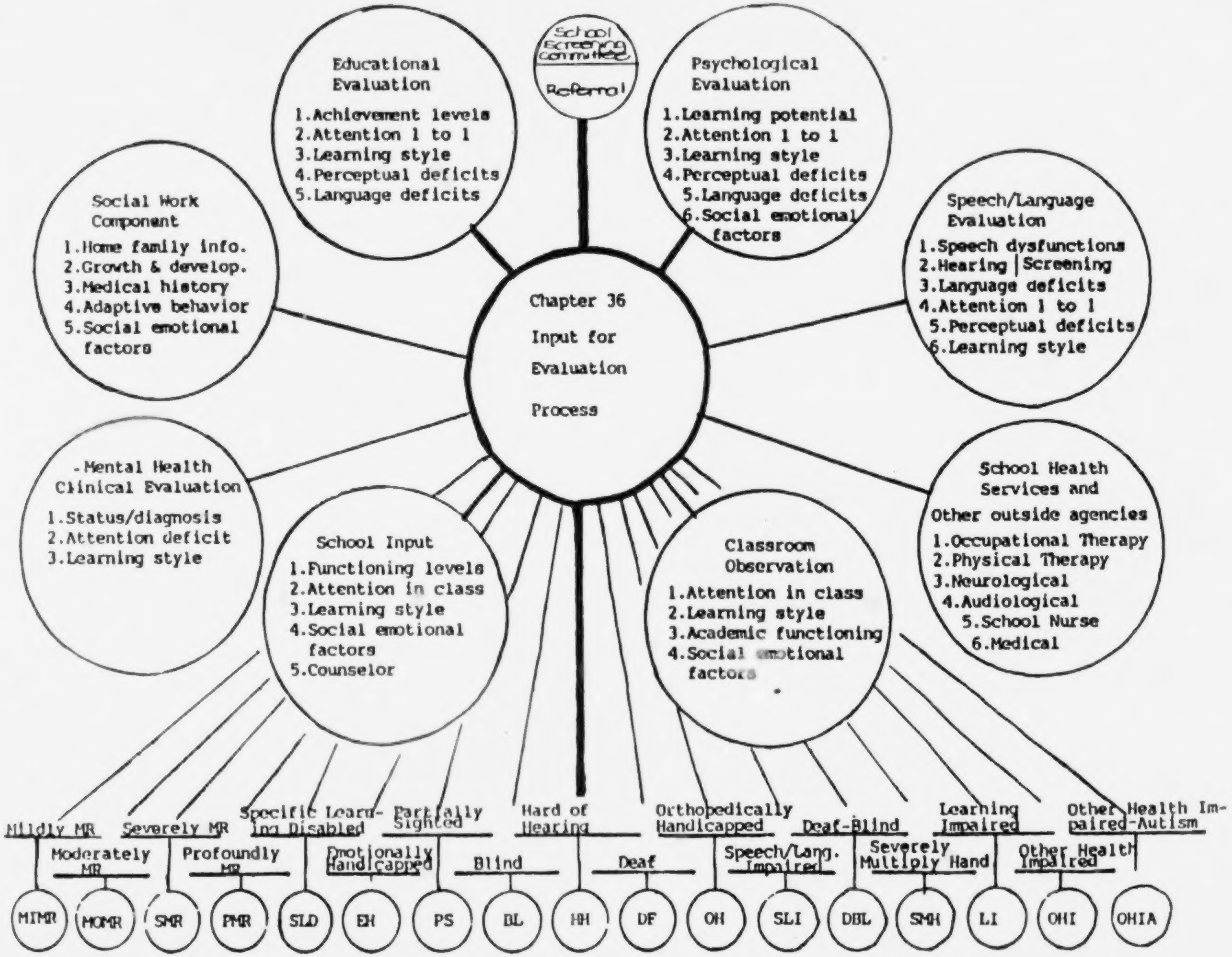
Handicapping Conditions

The first step in the evaluation process is to define as explicitly as possible what actually constitutes a handicapping condition.[7] In order to comply with federal law, all states must use the terms given in PL 94-142 and the subsequent regulations.[8] Federal regulations define the term "handicapped children" as those children evaluated as being "mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired, other health impaired, deaf-blind, multi-handicapped, or as having specific learning disabilities, who because of those impairments need special education and related services."[9]

Federal regulations also define each handicapping condition. The handicapping conditions are defined in general terms in order to give the

Exhibit 4

SOURCES OF INFORMATION USED IN THE EVALUATION PROCESS


School Screening Committee
Referral
Educational Evaluation
1.Achievement levels
2.Attention 1 to 1
3.Learning style
4.Perceptual deficits
5.Language deficits
Psychological Evaluation
1.Learning potential
2.Attention 1 to 1
3.Learning style
4.Perceptual deficits
5.Language deficits
6.Social emotional factors
Social Work Component
1.Home family info.
2.Growth & develop.
3.Medical history
4.Adaptive behavior
5.Social emotional factors
Chapter 36
Input for
Evaluation
Process
Speech/Language Evaluation
1.Speech dysfunctions
2.Hearing Screening
3.Language deficits
4.Attention 1 to 1
5.Perceptual deficits
6.Learning style
Mental Health Clinical Evaluation
1.Status/diagnosis
2.Attention deficit
3.Learning style
School Input
1.Functioning levels
2.Attention in class
3.Learning style
4.Social emotional factors
5.Counselor
Classroom Observation
1.Attention in class
2.Learning style
3.Academic functioning
4.Social emotional factors
School Health Services and Other outside agencies
1.Occupational Therapy
2.Physical Therapy
3.Neurological
4.Audiological
5.School Nurse
6.Medical
Mildly MR
Severely MR
Specific Learning Disabled
Partially Sighted
Hard of Hearing
Orthopedically Handicapped
Deaf-Blind
Learning Impaired
Other Health Impaired-Autism
Moderately MR
Profoundly MR
Emotionally Handicapped
Blind
Deaf
Speech/Lang. Impaired
Severely Multiply Hand
Other Health Impaired
MIMR
MOMR
SMR
PMR
SLD
EH
PS
BL
HH
DF
OH
SLI
DBL
SMH
LI
OHI
OHIA

Source: Hawaii, Department of Education.

states some flexibility in interpreting the parameters of the conditions.[10] Federal law does not mandate the specific levels of severity that must be demonstrated in order to qualify for one of the handicapping conditions; thus, these levels are determined by the individual states.[11] Each state needs to establish its own guidelines and criteria by which it will certify children as eligible for special education.[12]

Under chapter 8-36, Hawaii Administrative Rules (chapter 8-36), the terms "exceptional children who are handicapped" or "handicapped child" or "handicapped children" or "child" or "handicapped person" are defined as "a person or persons physically present in the State or a resident or residents of the State, who will be at least three years of age during the school year and under twenty years of age on the first instructional day of the school year, and who are determined in accordance with state standards, to be eligible for special education and related services under the handicapping conditions of: mental retardation, hearing impairment, speech impairment, visual impairment, emotional handicap, orthopedic handicap, other health impairment, deaf-blindness, severe multiple handicaps, learning impairment or specific learning disabilities."[13] Each handicapping condition is defined in the State Plan for Special Education and Services. Hawaii's definitions of handicapping conditions appear to track the federal regulations.

Evaluation Procedures

Federal regulations require that general evaluation procedures are followed to ensure that proper evaluations are made.[14] The evaluation procedures apply to all handicapping conditions, thus all children suspected of having any handicapping conditions must be evaluated in conformity with these procedures. The federal evaluation procedures are quite general in scope and do not specify particular tests that must be used to evaluate areas of educational need.[15] Thus, qualified examiners are given some flexibility in determining which assessment tools are most appropriate for the given situation.[16]

Chapter 8-36 was adopted by the Department of Education to comply with the federal law. In brief, the evaluation procedures are established to ensure that testing materials and procedures used for the purpose of evaluation and placement of handicapped children are selected and administered so as not to be racially or culturally discriminatory. The evaluation procedures in chapter 8-36 appear to be based upon the federal regulations.

However, there have been some problems in the propr implementation of the evaluation procedures. Chapter 8-36 imposes a shorter deadline than the federal law for the completion of the comprehensive educational evaluation from the time of referral. The multidisciplinary or diagnostic teams have 80 days from the day the referral request is received by the district superintendent in which to complete the evaluation.[17] The teams have not been able to complete all the evaluations within the 80-day timeline. For the 1987-1988 school year, the statewide average time lag was 107.3632 days.[18] (See Exhibit 5.) The statewide average was compiled from the averages of

Exhibit 5

AVERAGE TIME LAG IN DAYS BETWEEN INTAKE AND ELIGIBILITY BY HANDICAPPING CONDITION FOR THE SCHOOL YEAR 1987-88

HANDICAPPING CONDITION	HONOLULU	CENTRAL	LEEWARD	WINDWARD	HAWAII	MAUI	KAUAI	STATE AVERAGE
MILDLY MR	108.0000	101.5920	156.9230	128.0590	108.7620	121.7500	84.8000	118.7530
MODERATE MR	91.0556	63.4000	150.7060	127.4000	98.1111	129.0000	78.6667	99.6774
SEVERELY MR	88.2500	67.8000	153.2860	0.0000	116.6670	170.0000	50.0000	114.2000
PROFOUND MR	96.3333	48.0000	143.7500	0.0000	0.0000	0.0000	0.0000	109.1820
SPECIFIC LD	100.2920	76.5605	152.3210	132.8250	100.3200	105.6110	89.9779	104.4600
SERIOUS EMOTION	82.8421	123.5950	169.3570	123.7950	119.6000	117.0000	111.5330	120.4950
PARTIAL SIGHTED	7.0000	68.5000	177.0000	0.0000	82.0000	0.0000	99.0000	83.6667
BLIND	0.0000	76.0000	0.0000	70.0000	0.0000	112.6670	0.0000	93.3333
HARD OF HEARING	90.9231	91.0000	163.2860	115.2000	111.3750	111.4290	117.6670	111.2400
DEAF	94.2000	101.5000	147.0000	101.0000	42.0000	100.0000	0.0000	108.9410
ORTHO HANDICAP	96.6250	72.8947	128.8890	100.0000	91.3750	151.0000	95.5000	95.2222
SPEECH IMPAIRED	44.9833	60.7723	107.5200	72.8732	76.6894	76.9651	30.4314	67.9480
DEAF-BLIND	209.0000	0.0000	0.0000	0.0000	163.0000	0.0000	0.0000	186.0000
SEVERE MULTI	121.1670	76.0714	142.5560	70.0000	106.8750	167.0000	110.6670	112.6490
LEARN IMPAIRED	114.5450	64.2353	141.2940	98.0952	77.0952	78.0000	62.5000	90.5636
OTHER HEALTH	89.5000	79.8947	168.8000	99.8889	96.8333	144.0000	110.6670	100.1600
AUTISM	40.0000	110.4550	150.3330	30.0000	149.0000	0.0000	140.0000	108.6840
TOTAL DAYS:	1474.72	1282.27	2253.02	1269.14	1539.70	1584.42	1181.41	1825.18
AVERAGE TIME LAG IN DAYS:	92.1698	80.1419	150.2014	97.6259	102.6469	121.8786	90.8777	107.3632

Source: Hawaii, Department of Education.

the 7 districts. Each district average was compiled from all the evaluations for that district. Thus, many evaluations were completed before and after the statewide average of 107.3632 days. Moreover, the average includes evaluations which were completed after the 80-day timeline, but had legal extensions.[19]

The Department has stressed the importance of the evaluation timelines to the districts.[20] The Department monitors each district once every 2 years on the protection provisions for evaluations (including timelines) under PL 94-142 and chapter 8-36.[21] In 1989, each district must submit to the Department its timeline monitoring system.[22] The Department has taken steps to alleviate the timeline problems which are tied into the shortage of qualified special services evaluation personnel. This area is dealt with in Chapter 4.

In addition, an examination of the Case Review of Measures for Protection in Evaluation for several districts revealed that an examination of the Case Review of Measures for Protection in Evaluation for several departmental school districts revealed that there had been:[23]

(1) Inconsistent implementation of protection measures in the evaluations of children with limited English proficiency. For example, tests and other evaluation materials were not administered in the child's native language in several cases in which it would have been appropriate to do so.

(2) Use of tests and other evaluation materials which were not clearly validated for the specific purposes for which they were used, particularly the use of Hawaii norms of the TALK-HAWAII Battery of speech and language assessments.

(3) Failure to include all additional requirements in the evaluations of children suspected of having specific learning disabilities.

The TALK-HAWAII Battery is the result of a federally funded project to develop a new battery of speech and language assessments.[24] The battery was tested on 2,000 children in Hawaii and again the next year to establish the norms for the battery.[25] The district staffs have indicated the appropriate corrective measures that are necessary to alleviate these problems, including reevaluating certain students of limited English proficiency, prohibiting use of Hawaii norms of the TALK-HAWAII Battery for decisions regarding eligibility for special education until the publication of revised Hawaii norms, and closely monitoring the inclusion of all requirements on children evaluated as having specific learning disabilities.[26]

Eligibility Criteria

The evaluation results are used to determine whether a child is eligible for special education and what educational needs must be met in order to develop an appropriate educational program. In most states, a child is determined to be eligible for special education when: (1) the child is determined to have one of the listed handicapping conditions (e.g., a specific learning disability); and (2) special education is determined to be necessary to meet the child's needs.[27] The intent of the eligibility criteria is to limit special education to children who have a specific and identifiable problem that is adversely affecting their educational performance.[28]

After a child is evaluated, the diagnostic team makes recommendations based upon the evaluation. These recommendations must comply with the eligibility criteria specified in the Program Standards and Guidelines for Special Education and Special Services in Hawaii established by the Department of Education in 1977.[29] Each handicapping condition has its own guidelines for programs and services.

As mentioned previously, each state must establish its own procedures and eligibility criteria. Hawaii's eligibility criteria of the various handicapping conditions are described in Appendix E. The eligibility criteria appear to be based upon the different descriptions of the handicapping conditions and in compliance with the federal regulations.

A comparison of different states' eligibility criteria would be helpful to determine how Hawaii ranks against the other states and the District of Columbia. However, each handicapping condition has its own criteria which must be met in order for a child to be eligible for special education. As there are many tests and methods in which to determine whether a child has a handicapping condition, there are many different eligibility criteria. As current information of the handicapping conditions change, so do the eligibility criteria. Comparisons of the different eligibility criteria, particularly in terms of the number of children which may be affected, would be meaningless unless conducted by experts on the different handicapping conditions.

There are two different types of problems which are experienced when trying to compare eligibility criteria. The first problem is the inability to quantify certain criteria in objective terms. For example, Hawaii's eligibility criteria for the visually impaired states that "[s]tudents identified as visually impaired and found eligible for special education are those who have a visual loss of such nature and severity as to require special education and services."[30] The statement is a circular one which does not specify what criteria are needed to determine whether a child needs special education and instead states that a child needs special education if the condition necessitates special education. The guidelines for the orthopedically handicapped and other health impaired, and guidelines for the hearing impaired are similarly circular.

The second problem experienced in attempting to compare eligibility criteria is the inability to make any meaningful comparisons or conclusions regarding similarities or differences between the eligibility criteria of the different states. A comparison of the Tennessee Department of Education's eligibility criteria for serious emotional disturbance and Hawaii's eligibility criteria for emotionally handicapped further illustrates the difficulties experienced. (See Appendix F.) Hawaii's eligibility criteria state inclusion factors, exclusion factors, general characteristics, and specific characteristics which are all taken into consideration in the determination of eligibility for special education. Although Tennessee's eligibility criteria are stated in a broader manner than Hawaii's criteria, the basic requirements for eligibility are similar.

However, it is extremely difficult to obtain any useful conclusions from this comparison. First, the criteria are deliberately broad to allow diagnostic personnel to use their judgment in the evaluations. Thus, many criteria are subjective and susceptible to different interpretations. The same criteria applied to the same child by different persons may result in the child being eligible for special education in one case and not in the other. Second, because the criteria are not applied uniformly in each case, similar criteria will not adequately indicate what effect the criteria themselves will have on the number of children which are affected. Thus, although two states may have similar criteria for a given handicapping condition, it cannot be concluded that each state will or should have similar numbers of children eligible for special education. A simple comparison of each state's eligibility criteria would be useless for the purposes of this study.

The Department of Education's special services personnel have themselves experienced difficulties in implementing the state eligibility criteria for determining handicapping conditions and need for special education.[31] The Department is in the process of revising the eligibility criteria for the handicapping conditions to be more explicit and reflect current state-of-the-art knowledge.[32] Most of the eligibility criteria were established in 1977, except the criteria for specific learning disability which was revised in 1978 and 1980, and the criteria for emotionally handicapped and autistic which were revised in 1982.[33]

The Department is moving toward a non-categorical approach to the eligibility criteria in which a child is placed in an educational program based on the services needed rather than on a particular handicapping condition.[34] Along with the revised eligibility criteria, the Department intends to increase use of pre-referral intervention and in-service training of regular and special education teachers, counselors, and principals.[35] In general, pre-referral intervention is the process in which all steps are taken to work with the children to keep them in the regular education classrooms. The Department anticipates that the revision will be completed some time in 1989.[36]

Chapter 4

QUALIFIED SPECIAL SERVICES EVALUATION PERSONNEL

Multidisciplinary or Diagnostic Teams

Federal regulations require that the evaluations of children be made by a multidisciplinary team or group of persons, including at least one teacher or other specialist with knowledge in the area of the suspected disability.[1]

In Hawaii, the district multidisciplinary or diagnostic teams, composed of special services evaluation personnel, are allocated to the districts based on the number of students referred by the schools for diagnosis.[2] The teams are made up of speech pathologists, psychological examiners, school social workers, and educational evaluators. The teams are responsible for "educational evaluation of children with suspected special education needs; review of such evaluation; recommendation of appropriate special education placement and educational programming; assistance in implementation of prescriptive educational recommendations; and direct services to special education teachers."[3]

Each district is allocated a school psychologist and an educational specialist. The school psychologist is responsible for developing and monitoring a district-wide program of psychological services, providing consultation and technical supervision to the diagnostic teams, and participating in the delivery of psychological services in schools.[4] Among other duties, the educational specialist is responsible for overseeing the diagnostic teams and their operations.[5]

In order to provide all services necessary to properly evaluate each child, services which cannot be provided by the diagnostic teams or the Department of Health are provided through contracts with outside agencies.[6] Accordingly, special services evaluation personnel are employed during the summer months as well as during the school year in order to evaluate referred children and to prevent unnecessary delay in providing appropriate special education services.[7]

According to the Department, approximately 10,000 students with learning or adjustment problems are referred for diagnostic services every year.[8] Out of the 10,000 referrals, approximately 5,300 students are suspected of having a handicapping condition, approximately 3,500 students or one-third of the special education population require a reevaluation each year, and the remaining 1,200 referrals are for students who have special needs but are not being considered for special services.[9]

The diagnostic teams have extremely heavy workloads in meeting the requirements of PL 94-142 and chapter 8-36. Chapter 8-36 imposes shorter deadlines than the federal law for the completion of the comprehensive educational evaluations from the time of referral. The diagnostic teams have 80 days from the day the referral request is received by the district superintendent in which to complete the evaluation.[10] The Department acknowledges that there continues to be a backlog of cases.[11] As mentioned in Chapter 3, the average time lag for the 1987-1988 school year was 107.3632 days from the date of referral to the completion of the evaluation.[12] This figure is an average, compiled of district averages which include evaluations with legal extensions. Thus, although some evaluations were completed before the 80-day timeline, others were completed after the 107.3632-day average.

Shortage of Qualified Special Services Personnel

Currently, there is a shortage of qualified special services evaluation personnel (special services personnel). On October 17, 1988, the following vacancies existed:[13]

Position	Temporary		Permanent		
Psychological Examiners	3*		4		
Speech Pathologists	4		3		
Social Workers	3		0		
Educational Evaluators	9*		0		
School Psychologists	0		2		
Total	19	+	9	=	28**

*One position is not a special services position and is a 12 month position. Some positions are federally funded and are not special education positions, but positions in other projects.

**Out of 28 vacancies, 12 or approximately 43 per cent are in the Leeward district.

Source: Hawaii, Department of Education.

Adverse effects of the shortage are many, but the most important is the inability to adequately service all the children who are referred for evaluations on a timely basis. Existing special services personnel carry extremely high case loads in order to accommodate the vacancies as well as their own responsibilities.[14] In 1987, the statewide average was approximately 41 cases per speech pathologist.[15] The average range for the 7 districts was 29 (Honolulu) to 51 (Hawaii) cases.[16] This is an average of each of the 7 districts, thus, the individual speech pathologist caseload could be as much as 60 or more.[17]

Many evaluation timelines are not met, and there has been a decline in the quality of services provided.[18] For example, the recent vacancies in speech pathologist positions resulted in:[19]

1. A reduction of the amount of time the speech pathologist can devote to each child.

2. A reduction in the quality of instructional services due to decreased preparation time.

3. No provision of speech pathology services to certain schools for periods of time.

The speech pathologists see each child approximately 2 to 3 times a week, individually or in groups, for about 20 to 30 minutes.[20] Although each speech pathologist provides services to fewer schools than before PL 94-142, the increase in the number of children needing services has limited the amount of time spent with each child.[21]

In 1986, the Assessment and Improvement of Related Services (AIRS) Project, a federally funded study, assessed the impact and effectiveness of the special education related services in Hawaii. An area of investigation included statistics on turnovers and vacancies in related services professional positions. Unfortunately, the AIRS Project only investigated certain positions: occupational therapists, occupational therapy assistants, physical therapists, speech therapists, and mental health professionals (clinical psychologists and psychiatric social workers). According to the study, the average annual speech therapist turnover rate per district (overall) was 24 per cent, with a range from 10 per cent (Honolulu) to 26 per cent (Leeward).[22] In addition, the study concluded that the State of Hawaii has experienced a chronic problem in attracting and retaining qualified related service professionals.[23]

Problems in Recruitment and Retention

There are many factors which combine to create the difficulties experienced by the Department in recruiting and retaining special services personnel. Although the AIRS Project only investigated certain positions, the overall findings are still relevant from an informational viewpoint. The study identified various factors as causing the high turnover and vacancy rate. Poor working conditions included a lack of competitive salaries, adequate incentives and career ladders, and available facilities.[24] Problems in recruitment procedures and incentives included the requirements for State of Hawaii residency and United States citizenship, and the use of the Department of Personnel Services for the recruitment process.[25] Other problems included insufficient training programs.[26]

A survey was conducted of all the states and other jurisdictions regarding the difficulty in recruiting and maintaining special services personnel. A review of the 31 survey responses from 29 states, American Samoa, and the Northern Mariana Islands indicated that common difficulties experienced in recruiting and retaining special services personnel include low salaries, remote locations, and inadequate training programs.

It is important to understand that in many states, local educational agencies (LEAS) are responsible for recruiting and maintaining their own special services personnel. The states are not involved in the recruitment process and do not have data on the individual LEAS. In addition, many states and LEAS have different types of special services personnel, employment requirements, salaries, benefits, and other variables. Federal regulations only provide guidelines for states to work within, resulting in more than 50 different types of programs, policies, and procedures. Thus, any comparisons must take into account these differences and the validity of any comparison based upon the survey responses is uncertain.

In Hawaii, low salary is an area of great concern to the special services personnel. In 1988, the entry level salary for psychological examiners, educational evaluators, and school social workers is as follows:[27]

Rating	Yearly
SR 12	$15,864
SR 15	17,292
SR 18	19,356
SR 21	21,900

Source: Hawaii, Department of Education.

The entry level salary for speech pathologists, whose positions have been declared a shortage category and includes a shortage differential to be added to the base salary, is as follows:[28]

Rating	Yearly
SR 15	$18,480
SR 18	21,744
SR 21	24,480

Source: Hawaii, Department of Education.

The special services personnel feel that the salary levels are extremely low, non-competitive and a deterrent to potential applicants entering the field.[29] The Department's administrators also feel that the low salary is a major stumbling block in recruiting and retaining special services personnel.[30] Low salary appears to be a common problem among the survey respondents. Out of 31 responses, 13 states or approximately 42 per cent listed low salary as a problem in recruiting and maintaining special services personnel.

In addition, special services personnel must enter the Department system at the same entry "step" regardless of their previous experience.[31] Special services personnel begin at a particular level (i.e., level I, II, III, or IV) and at the "B" step.[32] Previous experience and training are taken into account in qualifying for a particular level, but all new special services personnel must start at the "B" step.[33] Special services personnel who qualify for the same level but have different backgrounds in training and experience start at the same step. Thus, experienced special services personnel who are new to the Department of Education are not credited for their years of experience in the profession in other states or other jobs. Due to the shortage category designation, speech pathologists start at the "G" step.[34]

Rural or remote location is another source of difficulty in recruiting or retaining special services personnel. Certain districts experience more vacancies than others. The Leeward District historically has had the greatest number of vacancies in the State.[35] Other districts with vacancy problems are the Central, Windward, and Maui (which includes Molokai) Districts.[36] Out of 28 vacancies as of October 1988, 12 or approximately 43 per cent are in the Leeward District. As with low salary, location is a common concern among those who responded to the survey. Out of 31 responses, 19 states or approximately 61 per cent listed rural or remote location as a deterring factor when trying to recruit or maintain special services personnel.

Inadequate training programs is an important factor which affects the amount of available special services personnel. The University of Hawaii does not have a program for psychological examiners.[37] Thus, students who may be interested in pursuing a career in this area would have to look elsewhere to be trained as psychological examiners. Accordingly, out of the 28 vacancies as of October 1988, 7 or approximately 28 per cent were in psychological examiner positions. Out of 31 responses, 9 states or approximately 29 per cent expressed inadequate training as a factor affecting the amount of special services personnel available.

Another factor that has contributed to the problem of recruiting and retaining special services personnel is the temporary nature of many positions. These positions are funded each year by the Legislature, which has not approved the requests to convert the temporary positions to permanent.[38] The Department has tried to convert the temporary positions for approximately the last two biennial budget cycles without success.[39] Due to the shortage of special services personnel locally, recruitment on the mainland is necessary. It is difficult for recruiters to successfully obtain qualified applicants from the mainland with the noncompetitive working conditions and temporary nature of the positions.[40] Further, it is easy to understand how applicants who are amenable to moving to Hawaii, even given the other drawbacks, balk at the idea of doing so for a temporary position.

Special services personnel feel many problems are caused by the dichotomy between certificated and classified positions.[41] Certificated positions include teachers, counselors, librarians, media specialists, psychological examiners, and speech pathologists. The Department no longer hires special services personnel for certificated positions; however, there are a few incumbents in the system. Most existing special services personnel and all new special services personnel are in classified positions. The differences between the two types of positions include work schedule, salaries, opportunities for advancement, recognition of service credits and leave benefits.[42] Special services personnel feel the classification system has caused an inequitable situation in which employees having identical jobs and equal qualifications work under different salary levels and work schedules.[43]

All these factors have helped to create a situation of high rates of turnover and vacancy. Many special services personnel leave for better paying positions in the private sector or on the mainland, or return to school in order to qualify for other positions.[44] In addition, those who are trained as special services personnel often transfer to other fields. Educational evaluators transfer to teaching because of better salary, hours, leave, and opportunities for advancement.[45] Likewise, psychological examiners transfer to counseling or the private sector.[46]

The Department of Education's Response to the Shortage Problem

The Department has responded to the shortage of special services personnel in various ways. In response to low salary, the Department has obtained a shortage category designation for speech pathologist positions to allow a shortage differential to be added to the basic salary.[47] This differential seems to have helped to alleviate some of the speech pathologist vacancies.[48] However, there are other positions in which vacancies exist. The Department will attempt, for the third time, to obtain a shortage category designation for the psychological examiner positions.[49] Out of 31 responses from other jurisdictions, 11 or approximately 35 per cent used salary increases as incentives to recruiting and maintaining special services personnel.

The Department has downgraded the minimum entry-level requirements for psychological examiners and educational evaluators.[50] Special services personnel at the "IV" level work independently and can perform their responsibilities without supervision.[51] In some cases where the vacancies are particularly severe, positions have been downgraded to the "I" level.[52] These lower qualified personnel do not have the required training or experience and must be "supervised" by qualified personnel.[53] However, the qualified personnel are overloaded with their own responsibilities and trying to cover for all of the vacancies.[54] They do not have the time to "supervise" others and are not compensated for the additional work and responsibility of "supervising" the lower qualified personnel.[55]

This downgrading of positions does not appear to have succeeded with respect to either the special services personnel or the Department. In many cases, personnel allowed to be hired with lower qualifications become "burnt out" in positions that require skills at a level far beyond what they possess or could be expected to possess.[56] The special services personnel believe that this situation has a negative impact on the children served because the quality of services received is substantially reduced.[57] In addition, the special services personnel further oppose the downgraded positions since they feel that the new minimum qualifications are not in keeping with the professional standards set by the field.[58] Most survey respondents did not endorse or practice downgrading as a means to alleviate the problem with recruiting and maintaining special services personnel. However, 8 out of 31 responses from other states, or approximately 26 per cent use provisional or temporary waivers, endorsements, permits, or certificates as a method to alleviate shortage problems.

The Department hires its teachers and educational officers.[59] However, applicants for special services positions must apply to the Department of Personnel Services.[60] The Department of Personnel Services checks the qualifications of the applicants and compiles lists of eligible applicants for distribution to the various departments.[61] This process has resulted in various problems, including inappropriate applicants and long time lags before the Department of Education is notified of qualified applicants.[62] The Department of Education staff believes that the recruiting, examining, and hiring of special services personnel would be improved and expedited if conducted by the Department of Education.

The Department of Personnel Services has entered into a Special Services Personnel Memorandum of Understanding with the Hawaii Government Employees Association. (See Appendix G.) The memorandum basically is an agreement to modify the work year of special services personnel. The conversion from a 12-month to a 10-month work year has resulted in a few transfers from other state agencies and a slight increase in the number of applications for special services positions.[63] However, special services personnel still believe there are many inequities between certificated and classified personnel which have not been alleviated by the memorandum.[64]

In order to reduce the shortages in speech pathologist positions, the Department and the University of Hawaii negotiated the loan of two Department of Education positions to the University to strengthen the speech pathology program and therefore train more students in that field.[65] The Department has had discussions with the University regarding the development of a specialist program for the training of psychological examiners as well as measures such as additional sections of practicum courses in individual intelligence assessment.[66] Thus far, no specialist program has been established. The Department has, however, successfully secured a practicum course in individual intelligence assessment at Chaminade University.[67] In addition, the Department is developing an expanded on-the-job training plan for preparing trainee level psychological examiners to perform the full range of duties of the position.[68] Some survey respondents are working with educational institutions to establish training programs, and offer tuition waivers and stipends to those willing to work in shortage positions. Out of 31 responses, 7 states, or approximately 23 per cent work with educational institutions to alleviate shortage problems.

The Department has actively recruited for special services personnel locally and on the mainland.[69] Active recruitment of graduates of the University of Hawaii and Chaminade has been conducted.[70] At the request of the Department, the Department of Personnel Services has placed special services positions in its regular classified advertisements more frequently than it usually does for civil service positions.[71] Mainland recruitment has been conducted through special trips, as part of recruitment of other educational personnel, and as part of administrators' attendance at national conferences and meetings.[72] Advertisements have been placed in journals of national organizations.[73]

The Department has undertaken and continues to undertake measures to remedy the special services personnel shortage. This summary is not to be taken as inclusive of all of its remedial measures. However, the remedial measures taken have not been successful in alleviating the problem of recruiting and retaining an adequate number of special services personnel.

Chapter 5

FINDINGS AND RECOMMENDATIONS

Identification

Identification is a very important step in the special education process because a child must be identified before that child can be considered eligible for special education. Pursuant to federal regulations, a state must submit a program plan to the United States Department of Education in order to receive federal funds. The program plan must include the policies and procedures by which the State ensures that all children who are handicapped and in need of special education and related services are identified, located and evaluated, and a method is developed and implemented to determine which children are currently receiving needed special education and related services and which are not.

Prior to Public Law 94-142 (PL 94-142), the United States Office of Special Education and Rehabilitative Services (OSE) estimated that the number of handicapped children in the United States was approximately 12 per cent of the school age population, age 5 to 17. A comparison of all states and the District of Columbia was conducted, using figures similar, but not identical to the OSE formula. Generally, Hawaii holds the last place ranking in terms of the number of handicapped children identified and served.

Several parents of handicapped children have filed a class action suit against the Department of Education and the Board of Education. The suit alleges, among other claims, that the State has violated federal and state law and denied handicapped children a free and appropriate education by failing to locate and identify these children.

This last place ranking does not automatically result in Hawaii losing its federal funding, or even place Hawaii in violation of any federal regulations. No state has been terminated from participating from the federal program since PL 94-142 has been established. However, states have had their funding reduced or increased according to changes in the number of children properly determined to be handicapped under the law. Whenever there are situations in which states are not in compliance with the law, the United States Department of Education's Division of Assistance to States works with the states to correct the problems.

Currently, it appears that there is more emphasis on proper implementation of PL 94-142 and the quality of services provided to handicapped children than there is on the number of children identified and served. According to the United States Department of Education, it would be unlikely for any state to lose all of its federal funding.

Although it is unlikely that Hawaii will lose all of its federal funding, the last place ranking may be an indication of problems with the implementation of PL 94-142. These problems may more correctly be traced to the evaluation procedures used to certify children eligible for special education and are further addressed in the eligibility section.

It is therefore recommended that the Department of Education consult with persons having expertise in special education to determine whether the current identification procedures need to be revised.

Eligibility of Special Education

Once a child suspected of having a handicapping condition is identified, the child is referred for evaluation. Federal regulations require that general evaluation procedures be followed to ensure that proper evaluations are made. Although Hawaii appears to be tracking the federal regulations in regards to proper evaluation procedures, certain problems in implementation have arisen. Mandatory timelines for evaluation specified in chapter 8-36, Hawaii Administrative Rules, have not been met on a consistent basis. The diagnostic teams have 80 days from the day the referral request is received by the district superintendent in which to complete the evaluation. For the school year 1987-1988, the statewide average time lag in days between intake and eligibility was 107.3632 days. Since the statewide average is an average of the 7 districts, many evaluations have been completed before and after that average. In addition, the average includes evaluations which were completed with legal time extensions. Other problems include:

(1) Inconsistent implementation of protection measures in the evaluations of children with limited English proficiency,

(2) Use of Hawaii norms of the TALK-HAWAII Batterv which have not been clearly validated, and

(3) Failure to include all additional requirements in the evaluations of children suspected of having specific learning disabilities.

Hawaii's eligibility criteria for the handicapping conditions appear to be based upon the federal regulations. However, the special services personnel have experienced difficulties in implementing the state criteria for determining handicapping conditions and need for special education. The Department of Education is revising the eligibility criteria to be more explicit and reflect current state-of-the-art knowledge.

It is therefore recommended that the Department of Education:

(1) Make particular effort to provide criteria to identify children who are visually impaired, orthopedically handicapped or other health impaired, or hearing impaired. At present, the eligibility criteria in these three areas essentially provide that students eligible for special education are those who have the handicapping condition to a degree which requires special education and services. These "criteria" are circular, do not provide any real guidance, and can be used to justify virtually any result.

(2) Report to the Legislature on revisions made to the eligibility criteria for all handicapping conditions after the revisions have been completed.

(3) After the new eligibility criteria have been implemented for a reasonable period, ascertain what, if any, are the effects of the changed criteria.

(4) Have persons with expertise in special education determine whether the tests and norms used in the evaluation process are appropriate for children in Hawaii.

(5) Submit periodic reports to the Legislature on the methods used to monitor all of the districts to assure that the evaluation procedures are properly followed, especially evaluation timelines; the information obtained from the monitoring, including recommendations for solving problems encountered.

Qualified Special Services Evaluation Personnel

There has been and continues to be a shortage of qualified special services evaluation personnel (special services personnel). The high turnover and the scarcity of special services personnel have contributed to delays in evaluation timelines and a reduction in the quality of services provided. This shortage appears to be the result of many different factors. Problems faced by the Department of Education in this area will be exacerbated if more students are identified as possibly requiring special education and there is no corresponding increase in the staff needed to evaluate those who are identified.

Both administrators and personnel agree that pay is low and not competitive. Shortage differentials have been granted only for speech pathologist positions. In addition, although new applicants may start at different levels, they must all start at the same entry "step" regardless of previous experience or training. Thus, an applicant who qualifies for the highest level and has additional experience and training must start at the same step as another without that experience and training.

Another problem is the extreme difficultly in recruiting or maintaining special services personnel in remote or rural locations such as the Leeward, Windward or Maui (which includes Molokai) departmental school districts.

A major cause of the inadequate number of special services personnel is that there are no training programs for certain evaluation professions. For example, the University of Hawaii does not have a program for psychological examiners.

Due to the inadequate number of special services personnel available locally, mainland recruitment is necessary. However, many special services positions are temporary and thus, unattractive to many applicants, particularly those who need to relocate.

Special services personnel feel a significant deterrent to recruiting and maintaining needed special services personnel is the inequity caused by the certificated and classified positions.

As a result of these factors, it is difficult to recruit and maintain an adequate amount of special services personnel. Many already in the profession are lost to other fields. Educational evaluators may transfer to teaching, while psychological examiners may transfer to counseling or private practice. Others have returned to school in order to qualify for other positions, or have left for positions in private industry or on the mainland.

The Department of Education has tried to alleviate the shortage problem in various ways. The Department has obtained a shortage category designation for the speech pathologist positions to allow a shortage differential to be added to the basic salary. However, there are other positions in which personnel shortages are more extreme. The Department is attempting, for the third time, to obtain a shortage category designation for the psychological examiner positions.

The Department has resorted to downgrading the minimum entry-level requirements for psychological examiners and educational evaluators to fill the needed vacancies. However, the downgrading of minimum entry-level requirements for those positions has exacerbated the problem. Existing special services personnel must supervise the less qualified personnel, without compensation for the additional work and responsibility. In many cases, personnel allowed to be hired with lower qualifications become "burnt out" in positions which require much higher qualifications. This situation has a negative impact on the children served because the quality of services provided is substantially reduced.

The Department does not hire its special services personnel. Applications are made to the Department of Personnel Services before applicants are contacted by the Department of Education. This situation has resulted in various problems, including inappropriate applicants and long time lags before the Department is notified of qualified applicants. The Department of Personnel Services and the Hawaii Government Employees Association have entered into a Special Services Personnel Memorandum of Understanding which basically modifies the work year of the special services personnel.

The Department of Education has worked with the University of Hawaii to strengthen the speech pathology program. The Department has had discussions with the University in attempts to obtain a specialist program for psychological examiners. The Department has worked with Chaminade and is developing an on-the-job training program for trainee level psychological examiners. The Department has actively recruited for special services personnel locally and on the mainland.

It is therefore recommended that the Department of Education:

(1) Work together with the Department of Personnel Services to establish new salary ranges which are comparable to similar or identical positions in private industry or public employment on the mainland. If salaries are not increased, a shortage category designation should be placed on the psychological examiner position and other positions in which there are extreme shortages.

(2) Establish incentives, such as financial compensation, credit, or other compensation for:

  (a) Additional experience and educational training.

  (b) Personnel who move to areas where shortages exist or personnel who move to Hawaii from the mainland.

(3) Establish a closer working relationship with the University of Hawaii in the following areas:

  (a) Establish in-service training programs in which the University provides support and technical resources.

  (b) Establish incentives for much needed personnel. The Department and the University should work together to establish tuition waivers, stipends or other incentives to be used in exchange for agreements to work in areas of shortages (e.g., psychological examiners in the Leeward district).

  (c) Establish training programs at the University for all personnel to ensure that adequate numbers of qualified special services evaluation personnel are available locally.

  (d) Establish programs which combine practical experience with additional help in the field. By coordinating programs in which students in evaluation professions "work" for credits by on-the-job experience, the University gains students with more practical experience while the Department gains help for their special services personnel.

(4) Discontinue the practice of downgrading minimum requirements for positions. This practice tends to exacerbate rather than alleviate the shortage problem.

(5) Submit information to the Legislature on the amount of personnel needed and the rationale for additional personnel and the Department's suggestions for alleviating the shortage problem.

It is recommended further that the Legislature:

(1) Convert the temporary positions to permanent ones. PL 94-142 is permanent legislation until it is repealed. As long as PL 94-142 is the law, the positions are necessary to serve all handicapped children.

(2) Allow the Department to recruit, examine, and hire special services personnel. Currently, this process is handled by the Department of Personnel Services. It is believed that this process would be improved and expedited if the Department is allowed to hire its own special services personnel directly.

Footnotes

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3. Telephone interview with Kathleen Hebbeler, Education Research Analyst, Division of Innovation & Development, Office of Special Education Programs, Special Studies Branch, Washington, D.C., December 14, 1988.

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17. Tyrrell interview, supra note 15.

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19. Ibid.

20. Tyrrell interview, supra note 15.

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24. Ibid.

25. Ibid.

26. U.S., Office of Special Education and Rehabilitative Services, Division of Education Services, Special Education Programs, Seventh Annual Report to Congress on the Implementation of the Education of the Handicapped Act (Washington, D.C.: 1985), p. 112.

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10. Larsen, supra note 2, p. 75.

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13. Hawaii Administrative Rules, section 8-36-2 (Department of Education).

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18. Position Statement, *supra* note 4, p. 3.

19. *Ibid.*, pp. 3-4.

20. Festerling interview, *supra* note 15.

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22. Robert A. McClelland & Glenn T. Hirata, *Final Report Assessment and Improvement of Related Services (AIRS) Project* (Honolulu: August, 1986), p. 19.

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Appendix A

HOUSE OF REPRESENTATIVES
FOURTEENTH LEGISLATURE, 1987
STATE OF HAWAII

H.R. NO. 281

HOUSE RESOLUTION

PERMANENT FILE

REQUESTING THE LEGISLATIVE REFERENCE BUREAU TO STUDY THE DEPARTMENT OF EDUCATION'S PROCEDURES AND CRITERIA IN IDENTIFICATION OF SPECIAL EDUCATION STUDENTS.

WHEREAS, Public Law 94-142 mandates appropriate and timely evaluations of students suspected of having handicapping conditions; and

WHEREAS, Chapter 36 of the Department of Education Regulations specifies mandatory timelines for evaluation of Hawaii students; and

WHEREAS, the Department of Education has failed to meet these mandatory guidelines; and

WHEREAS, Hawaii ranks 51st of all states plus the District of Columbia in the percentage of students identified as handicapped, indicating deficiencies in the identification procedures or certification criteria; and

WHEREAS, consistent early identification of student's handicaps is not done; and

WHEREAS, early identification of and services to children with handicaps results in proven reduction in long term service costs; and

WHEREAS, ambiguous, questionable, certification criteria for certifying students as handicapped hinders effective evaluation of students; and

WHEREAS, high turnover in evaluation personnel and scarcity of trained professional evaluators contributes to delays and potential inappropriate evaluation; and

H.R. NO. 281

WHEREAS, failure of appropriate timely evaluation for handicapped students endangers the continuation of federal funds under P.L. 94-142; now, therefore

BE IT RESOLVED by the House of Representatives of the Fourteenth Legislature of the State of Hawaii, Regular Session of 1987, that the Legislative Reference Bureau is requested to study the Department of Education's procedures in identifying special education students, the criteria used by diagnostic teams in determining the certification of special education students, and the difficulties encountered in attracting and maintaining qualified special services evaluation personnel; and

BE IT FURTHER RESOLVED that the Legislative Reference Bureau report findings and recommendations to the Legislature twenty days before the convening of the Regular Session of 1988; and

BE IT FURTHER RESOLVED that a certified copy of this Resolution be transmitted to the Legislative Reference Bureau and the Department of Education.

OFFERED BY: Rod Tam

Bill Pfeil

Calvin K.Y. Say

EDN/0180e

Appendix B

THE SENATE
FOURTEENTH LEGISLATURE, 1987
STATE OF HAWAII

S.R. NO. 89
S.D. 1

SENATE RESOLUTION

REQUESTING THE LEGISLATIVE REFERENCE BUREAU TO STUDY THE DEPARTMENT OF EDUCATION'S PROCEDURES AND CRITERIA IN IDENTIFICATION OF SPECIAL EDUCATION STUDENTS.

WHEREAS, Public Law 94-142 mandates appropriate and timely evaluations of students suspected of having handicapping conditions; and

WHEREAS, Chapter 36 of the Department of Education Regulations specifies mandatory timelines for evaluation of Hawaii students; and

WHEREAS, the Department of Education has failed to consistently meet these mandatory guidelines; and

WHEREAS, Hawaii ranks 51st of all states plus the District of Columbia in the percentage of students identified as handicapped, indicating deficiencies in the identification procedures or certification criteria; and

WHEREAS, consistent early identification of students' handicaps, including the distinguishment of children with language problems from those with learning disabilities/impairments, is not done; and

WHEREAS, early identification of and services to children with handicaps results in proven reduction in long term service costs; and

WHEREAS, ambiguous, questionable certification criteria for certifying students as handicapped hinders effective evaluation of students; and

WHEREAS, high turnover in evaluation personnel and scarcity of trained professional evaluators contributes to delays and potential inappropriate evaluation; and

WHEREAS, failure of appropriate timely evaluation for handicapped students endangers the continuation of federal funds under P.L. 94-142; now, therefore,

4514E

BE IT RESOLVED by the Senate of the Fourteenth Legislature of the State of Hawaii, Regular Session of 1987, that the Legislative Reference Bureau is requested to study the Department of Education's procedures in identifying special education students and students with speech and language problems, the criteria used by diagnostic teams in determining the certification of special education students and students with speech and language problems, and the difficulties encountered in attracting and maintaining qualified special services evaluation personnel; and

BE IT FURTHER RESOLVED that the Legislative Reference Bureau report findings and recommendations to the Legislature twenty days prior to the convening of the Regular Session of 1988; and

BE IT FURTHER RESOLVED that certified copies of this Resolution be transmitted to the Legislative Reference Bureau and the Department of Education.

Appendix C

TITLE 8 DEPARTMENT OF EDUCATION

SUBTITLE 2 EDUCATION

PART 1 PUBLIC SCHOOLS

CHAPTER 36

PROVISION OF A FREE APPROPRIATE PUBLIC EDUCATION FOR EXCEPTIONAL CHILDREN WHO ARE HANDICAPPED

§8-36-1 Purpose
§8-36-2 Definitions
§8-36-3 Applicability
§8-36-4 Authority
§8-36-5 Prior notice
§8-36-6 Contents of notice
§8-36-7 Confidentiality of information
§8-36-8 Parental consent
§8-36-9 Identification
§8-36-10 Evaluation
§8-36-11 Program
§8-36-12 Placement
§8-36-13 Mediation
§8-36-14 Impartial hearing
§8-36-15 Hearing rights
§8-36-16 Hearing decision
§8-36-17 Extension of time limits
§8-36-18 Relating to misconduct and discipline
§8-36-19 Relating to transportation

Historical Note: This chapter is based substantially upon Department of Education "Rule 49, Relating to the Provision of A Free Appropriate Public Education for Exceptional Children Who Are Handicapped." [Eff. 11/29/73; am 4/23/77; am 10/2/78; am 1/8/78; R JAN 6 1986]

§8-36-1 Purpose. The purpose of this chapter is to provide procedures that protect the due process rights of children who are handicapped, or who are suspected of being handicapped, and their parents in matters relating to identification, evaluation, program, placement, or the provision of a free appropriate public education and to inform the public

of these procedures and rights. The spirit and intent of this chapter are to assure parental and student involvement in educational matters through frequent communication between home and school.
[Eff. JAN 6 1986] (Auth: HRS §296-12) (Imp: HRS §296-12; 34 C.F.R. 300.1)

§8-36-2 Definitions. As used in this chapter, unless the context indicates otherwise:

"Child's teacher" means a person assigned by the department who is qualified under state standards to provide instruction and related services.

"Consent" means that the parent understands and agrees in writing to the proposed activity after:

(1) The parent has been fully informed of all information relevant to the activity for which the consent is sought, including a description of that activity and a list of the records, if any, which shall be released and to whom;
(2) The parent understands that the granting of consent is voluntary on the parent's part and the parent may revoke it at any time; and
(3) The information is provided in the native language or other mode of communication used by the parent.

"Day" means calendar day, except that should the last day of any prescribed period fall on a Saturday, Sunday, or legal holiday, the time period shall run until the end of the next working day.

"Deliver" means to send a written notice to the parent and to document, by obtaining the parent's signature, the receipt of the notice as follows:

(1) Except for individualized education program conferences, all notices shall be mailed, return receipt requested, or personally delivered and parent's signature obtained;
(2) For individualized education program conferences only, notice shall be sent through regular mail or personally delivered; if documentation of receipt is not obtained, then notice shall be mailed, return receipt requested, or personally delivered and parent's signature obtained. If the child is not living with a parent, notice shall be provided, as feasible, to both the parent and the person with whom the child resides.

"Department" means the Hawaii state department of education.

"Evaluation" means those activities involved in gathering information about a specific child to determine whether a child is eligible for special education services and the nature and extent of the special education and related services the child needs. An evaluation is made up of separate assessments that cover all areas related to the suspected disability, including where appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status and motor abilities. Testing and evaluation materials and procedures used for the purposes of evaluation and placement of handicapped children must be selected and administered so as not to be racially or culturally discriminatory. Evaluation encompasses the following terms and activities:

(1) Children who have a speech impairment may not need a complete battery of assessments (such as those for psychological, physical, or adaptive behavior). However, qualified speech and language personnel would:
  (A) Evaluate each speech impaired child using procedures that are appropriate for the diagnosis and appraisal of speech and language disorders, and
  (B) Where necessary, make referrals for additional assessments needed to make an appropriate eligibility decision.

(2) Initial or pre-placement evaluation means the first comprehensive, full and individual, evaluation that is conducted for any child suspected of being handicapped;

(3) Reevaluation means a comprehensive evaluation of a handicapped child that is conducted every three years or more frequently if conditions warrant;

(4) Supplemental assessment means an assessment that is conducted after a handicapped child is placed in a special education program and which is deemed necessary in order to obtain additional information about a handicapped child. The assessments may be in areas such as mental health services, speech or occupational or physical therapy; and

(5) Independent educational evaluation means an evaluation conducted by a qualified examiner who is not employed by a public agency responsible for the education of the child in

question. An independent evaluation conducted at public expense shall meet state standards.

"Exceptional children who are handicapped" or "handicapped child" or "handicapped children" or "child" or "handicapped person" means a person or persons physically present in the State or a resident or residents of the State, who will be at least three years of age during the school year and under twenty years of age on the first instructional day of the school year, and who are determined in accordance with state standards, to be eligible for special education and related services under the handicapping conditions of: mental retardation, hearing impairment, speech impairment, visual impairment, emotional handicap, orthopedic handicap, other health impairment, deaf-blindness, severe multiple handicaps, learning impairment or specific learning disabilities. For the purpose of this chapter, when a handicapped person reaches eighteen years of age, the rights of the parent under this chapter shall be transferred to the handicapped person unless it has been determined by a court that the handicapped person is in need of a guardian. Further, for the purpose of this chapter, handicapped children who attain the age of three by December 31 of the school year shall be entitled to enroll as a student on the first instructional day of the school year; handicapped children whose third birthdays occur on or after January 1 of the school year shall be entitled to enroll as a student on or after their third birthday.

"Free appropriate public education" means special education and related services in the least restrictive environment which are provided at public expense, under public supervision and direction and without charge to parents, except for incidental fees which are normally charged to non-handicapped students or their parents as a part of the regular education program; meet the standards of the State; include preschool, elementary, or secondary school education; and are provided in conformity with an individualized education program.

"Hearing" means an impartial due process hearing conducted by an impartial hearing officer.

"Identification" means those activities that are designed to locate children suspected of being handicapped and are ordinarily associated with the referral process prior to evaluation activities.

"IEP" means individualized education program, or written statement for a handicapped child that is developed jointly by the appropriate participants, as stated in this chapter, and includes:

(1) A statement of the child's present levels of educational performance;

(2) A statement of annual goals, including short-term instructional objectives;

(3) A statement of the specific special education and related services to be provided to the child, and the extent to which the child will be able to participate in regular education programs;

(4) The projected dates for initiation of services and the anticipated duration of the services; and

(5) Appropriate objective criteria and evaluation procedures and schedules for determining, on at least an annual basis, whether the short-term instructional objectives are being achieved.

"Least restrictive environment" means that, to the maximum extent appropriate, a handicapped child, including a handicapped child in public or private institutions, shall be educated in an environment as close as possible to the handicapped child's home and with children who are not handicapped. The removal of a handicapped child from the regular education environment, including non-academic and extra curricular services and activities, shall occur only when the nature or severity of the handicap is such that participation with the use of supplementary aids and services, cannot be achieved satisfactorily. In selecting the least restrictive environment, consideration shall be given to any potential harmful effect on the handicapped child or the quality of services needed.

"Native language" means, when used with reference to a person of limited English speaking ability, the language normally used by that person, or in the case of a child, the language normally used by the parents of the child.

"Notice" means a communication in English, and when appropriate, in the native language of the parent or through another mode of communication used by the parent, unless it is clearly not feasible to do so. The notice shall be written in language understandable to the general public and delivered to the parent. If the parent does not use a written language, or when the written native language translation is not available, the department, in addition to providing written notice in English, shall:

(1) Translate the notice orally or by other means in the parent's native language or other mode of communication, and
(2) Document, in writing, that a translation was provided and that the parent understands the content of the notice.

"Parent" means the natural or legal parent; a legally appointed guardian; or person acting as a parent of the child who has the approval of the natural or legal parent. The term includes foster parents and guardians ad litem only when they have the legal right or authority to consent to educational matters affecting the child under their care or are duly appointed as surrogate parents. In addition, when the parent, guardian, or person acting as a parent of the child is not known, or the department, after reasonable efforts, cannot discover the whereabouts of a parent, or the child is a ward of the state, the department shall seek the assignment of an individual to act as a surrogate parent. This individual shall have no interest that conflicts with the interest of the child that this individual represents, and have knowledge and skills that insure adequate representation of the child. A person assigned as a surrogate shall not be an employee of a public agency involved in the education or care of the child. A person who meets the requirements of this section to be a surrogate parent is not an employee of the agency solely because that person is paid by the agency to serve as a surrogate parent. The surrogate parent may represent a child in all matters relating to identification, evaluation, program and placement of the child and the provision of a free appropriate public education to the child.

"Placement" means an appropriate educational setting for the implementation of the program for a handicapped child as established by the individualized education program plan. Placement shall be provided in the least restrictive environment in a continuum of educational arrangements such as:
(1) Regular class with special education instructional and related services provided in the regular class;
(2) Regular or special education class with itinerant services;
(3) Regular class with special education resource service;
(4) Integrated, self-contained special education class;
(5) Full-time self-contained special education

class;

(6) Special education school, such as:

    (A) Day facility; or
    (B) Residential facility; and

(7) Home or hospital through itinerant special education instructional and related services.

Placement shall also be provided in regular pre-school classes in the community for 3-year-old and 4-year-old handicapped children when appropriate.

"Program" means special education and related services which are specified in the child's individualized education program.

"Related services" means transportation and such developmental, corrective and other supportive services, including early identification, speech therapy, audiology, psychological services, physical and occupational therapy, counseling services, recreation, school health services, social work services in schools, parent counseling and training, and medical services for diagnostic or evaluation purposes, as are required to assist a handicapped child to benefit from special education.

"Regular modes of transportation" means walking or riding unassisted in mass transit or school buses with a carrying capacity of over sixteen passengers.

"Special education" means specially designed instruction, at no cost to the parents, to meet the unique needs of a handicapped child. The term includes physical education and vocational education. The term also includes speech therapy when the speech impairment is the primary handicapping condition.
[Eff. JAN 6 1986] (Auth: HRS §296-12) (Imp: HRS §§1-29, 296-1, 296-12, 301-25; 34 C.F.R. 300.4, 300.5, 300.9, 300.10, 300.12, 300.13, 300.14, 300.128, 300.346, 300.500, 300.503, 300.506, 300.514, 300.531, 300.532, 300.550, 300.551)

§8-36-3 Applicability. No action relating to the identification, evaluation, program, placement of, or the provision of a free appropriate public education to children who are handicapped or suspected of being handicapped, shall be undertaken except in accordance with this chapter. [Eff. JAN 6 1986] (Auth: HRS §296-12) (Imp: HRS §296-12; 34 C.F.R. 300.2)

§8-36-4 Authority. The district superintendent shall ensure that exceptional children who are handicapped and who reside within the district are provided a free appropriate public education in accordance with this chapter, and shall assign personnel to effect the provisions of this chapter. [Eff. JAN 6 1986] (Auth: HRS 296-12) (Imp: HRS §§296-12, 301-22; 34 C.F.R. 300.600)

§8-36-5 Prior notice. Any proposal or refusal to initiate or change the identification, evaluation, program, placement or the provision of a free appropriate public education shall not be undertaken without first providing notice to the parent and the opportunity for a hearing in accordance with this chapter. [Eff. 5 1986] (Auth: HRS §296-12) (Imp: HRS §296-12; 34 C.F.R. 300.504)

§8-36-6 Contents of notice. The notice shall provide the parent with an explanation, in clear and simple language, of the proposed or refused action and shall contain:

(1) An explanation of the procedural safeguards available to the parent as described in this chapter and chapter 8-34, Administrative Rules, entitled "Protection of Educational Rights and Privacy of Students and Parents";
(2) A description of proposed or refused action and the reasons why such action is deemed appropriate for the child;
(3) A description of each evaluation procedure, test, record, or report upon which the proposed or refused action is based;
(4) A description of any options the department considered and the reasons why these options were rejected;
(5) A description of any other factors which are relevant to the proposed or refused action;
(6) Where consent is not required, a statement that unless the department is otherwise notified, the recommended action will be implemented by a date specified in the notice which shall be not less than ten days after the date the notice was sent;
(7) Where consent is required, a statement that the recommended action will not take place until due process procedures have been followed; and
(8) A statement that the parent has the right to

inspect and review any of the handicapped child's education records as defined in chapter 8-34, Administrative Rules, before an individualized education program meeting or an impartial hearing. [Eff. JAN 5 1986] (Auth: HRS §296-12) (Imp: HRS §296-12; 34 C.F.R. 300.505)

§8-36-7 Confidentiality of information. All of the provisions of chapter 8-34, Administrative Rules, entitled "Protection of Educational Rights and Privacy of Students and Parents", shall apply to children who are handicapped or are suspected of being handicapped and their parents. In addition, the following shall apply:

(1) Access rights to education records. The department shall maintain, for public inspection, a current listing of the names and positions of those employees within the agency who may have access to personally identifiable information. "Personally identifiable" means that information includes:
   (A) The name of the child, the child's parent, or other family member;
   (B) The address of the child;
   (C) A personal identifier, such as the child's social security number or student number; or
   (D) A list of personal characteristics or other information which would make it possible to identify the child with reasonable certainty.

(2) Destruction of records. When records are no longer appropriate, relevant, or needed to provide educational services, the department shall inform parents of their option to request that all records, except for directory information, be destroyed. If, in response to the notice, the parent so requests, the records shall be destroyed except for directory information which may be maintained without time limitation.

(3) Procedures for granting access. When a parent requests access to the child's education records, the records shall be made available within a reasonable period of time but not later than thirty days after the

request. However, the department shall comply with the parent's request to inspect and review the child's records which are collected, maintained, or used by the agency before any meeting regarding an individualized education program or hearing relating to the identification, evaluation, program or placement of the child.

(4) Review and challenge of record contents. When a parent challenges the contents of the child's education records and files a written explanation, it shall be maintained as part of the records as long as the records or contested portion is maintained by the department. The written explanation shall be disclosed to any authorized person requesting the contested records.

(5) The department, on parent's request, shall provide an opportunity for a hearing under chapter 8-34 to challenge information in education records to insure that it is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child.

(6) When a parent refuses to provide consent for release of personally identifiable information, the department may petition the family court for appropriate relief.

(7) The department shall not charge a fee to search for or retrieve information under this section. [Eff. JAN 6 1986] (Auth: HRS §296-12) (Imp: HRS §296-12; 34 C.F.R. 300.500, 300.562, 300.566, 300.567, 300.568, 300.569, 300.570, 300.571, 300.572, 300.573)

§8-36-8 Parental consent. (a) When there is reason to believe that a child is in need of special education and related services, in addition to the notice required to be sent by section 8-36-5, parental consent shall be obtained before:

(1) Personally identifiable information is released as stated in chapter 8-34, Administrative Rules;

(2) Conducting an initial evaluation;

(3) Initial placement of a handicapped child in a program providing special education and related services; and

(4) Conducting any reevaluation before a possible

change in placement.

(b) The request for consent to an initial evaluation or any reevaluation conducted before a possible change in placement, shall be delivered and contain the following:

(1) The reasons the evaluation has been requested, and the name of the person who initiated the process;

(2) A statement of the right to refuse consent to the initial evaluation or any reevaluation conducted before a possible change in placement, with the understanding that the department can request an impartial hearing to override a parent's refusal to consent; and

(3) A statement that the child's placement will not be changed without the parent's consent, or until due process procedures have been exhausted.

(c) The request for consent to an initial placement shall be delivered and contain the following:

(1) A statement of the right to refuse consent to the initial placement with the understanding that the department can request an impartial hearing to override a parent's refusal to consent; and

(2) A statement that the child's placement will not be changed without the parent's consent, or until due process procedures have been exhausted.

(d) Requests for parental consent for release of personally identifiable information shall be made in accordance with the provisions of chapter 8-34.

(e) If the parent:

(1) Disagrees with the decision regarding the proposed action, the parent may request an impartial hearing; or

(2) Refuses to consent to the initial evaluation, initial placement, or any reevaluation conducted before a possible change in placement of the child, or fails to respond to the department's documented attempts by mail, telephone calls, or home visits to obtain consent, the department may request an impartial hearing; or

(3) Wishes to revoke consent at any time, the department shall require a written statement revoking consent and the reasons for the revocation. [Eff. JAN 6 1986] (Auth: HRS

§296-12) (Imp: HRS §296-12; 34 C.F.R. 300.504)

§8-36-9 Identification. Any person working with a child, including the child's parent, who has reason to suspect that the child is handicapped and may benefit from special education and related services, may refer the child to the department by advising the child's principal in writing of the child's possible needs. If the child is not a public school student, the referral shall be made or forwarded to the principal of the school in the child's attendance area. [Eff. JAN 6 1986] (Auth: HRS §296-12) (Imp: HRS §296-12)

§8-36-10 Evaluation. (a) Within twenty days from the date of receipt of a referral or an evaluation request, the principal shall:

(1) Review the referral;
(2) Deliver a notice to the parent of the decision regarding the referral or request;
(3) Obtain consent if the request is for initial evaluation; and
(4) Transmit the referral request to the district superintendent if an evaluation is deemed appropriate and the parent has consented to the evaluation.

(b) The evaluation process shall be carried out as follows:

(1) When the district superintendent receives the principal's request for an evaluation, the evaluation shall be conducted under the direction of the district superintendent's office by a multi-disciplinary team or group of persons including at least one teacher or other specialist with knowledge in the area of the suspected disability.
(2) Measures shall be taken to insure protection in evaluation, including consideration of and adjustments, as necessary, for:
    (A) The child's native language, verbal or non-verbal;
    (B) Validity and relevancy of evaluation material;
    (C) Performance of evaluations by trained personnel;
    (D) Evaluation in specific areas of

educational need;
- (E) Impaired sensory, manual or speaking skills; and
- (F) Use of more than one criterion for determining educational programming.

(3) In evaluating a child suspected of having a specific learning disability:
- (A) The multi-disciplinary evaluation team assigned to evaluate the child shall include: the child's regular teacher; or if the child does not have a regular teacher, a regular classroom teacher qualified to teach a child of the same age; and at least one person qualified to conduct individual diagnostic examinations of children; and
- (B) At least one team member other than the child's regular teacher shall observe the child's academic performance in the regular classroom setting.

(4) In evaluating a child having or suspected of having a specific learning disability, the team shall prepare a written report of the results of the evaluation. The report shall state the following:
- (A) Whether the child has a specific learning disability;
- (B) The basis for making the determination;
- (C) The relevant behavior noted during the observation of the child;
- (D) The relationship of that behavior to the child's academic functioning;
- (E) The educationally relevant medical findings, if any;
- (F) Whether there is a severe discrepancy between achievement and ability which is not correctable without special education and related services; and
- (G) The determination of the team concerning the effects of environmental, cultural, or economic disadvantage. Each team member shall certify in writing whether the report reflects the team member's conclusion. If the report does not reflect a team member's conclusion, the team member shall submit a separate statement presenting the conclusions that the team member reached.

(5) Upon completion of the evaluation, the

appropriate district staff shall send to the principal the evaluation reports and recommendations.

(6) The principal shall inform the district superintendent in writing of the principal's recommendations regarding the evaluation.

(7) The district superintendent shall review reports, insure reports are products of a proper evaluation, and based on the evaluation data, issue a statement with respect to eligibility.

(8) Not more than eighty days from the date of receipt of the request for an evaluation by the district superintendent to the date of eligibility determination shall be taken to develop and transmit educational recommendations, including those contracted out.

(c) Provisions governing an independent educational evaluation shall be as follows:

(1) A parent has the right to seek an independent educational evaluation; on request, the department shall provide information on where to obtain an independent educational evaluation;

(2) If the parent obtains an independent educational evaluation at the parent's expense, the results of the evaluation:
  (A) Shall be considered by the department in any decision regarding identification, evaluation, program or placement; and
  (B) May be presented as evidence at a hearing.

(3) The independent educational evaluation shall be at public expense when:
  (A) A hearing officer requests an independent educational evaluation as part of a hearing; or
  (B) The parent disagrees with the evaluation obtained by the department and the department agrees to pay for an independent educational evaluation; or
  (C) The parent disagrees with the evaluation obtained by the department, the department requests a hearing to resolve the disagreement, and the hearing officer rules that the department's evaluation is not appropriate.

(4) If a final decision by a hearing officer is that the department's evaluation is

appropriate, the parent still has the right to an independent educational evaluation, but not at public expense. [Eff. JAN 6 1986] (Auth: HRS §296-12) (Imp: HRS §296-12; 34 C.F.R. 300.503, 300.504, 300.532, 300.540) (Supp. III 1977); 300.542 (Supp. III 1977); 300.543 (Supp. III 1977)

§8-36-11 Program. (a) Within thirty days from the date a handicapped child is determined eligible to receive special education and related services, the principal shall deliver a notice to the parent and hold a conference or series of conferences to:

(1) Discuss and interpret the evaluation, eligibility, and program recommendations;
(2) Develop, revise, or review the individualized education program; and
(3) Determine placement, and obtain consent if for initial placement.

(b) Whenever the school or the parent requests a change in the individualized education program before the annual review date, or when a supplementary assessment has been completed, the child's principal shall be informed. The principal, or a designated representative shall deliver to the parent a notice of a conference and the conference shall be held at a mutually agreeable time and place.

(c) At any conference, when needed, an interpreter shall be provided by the department to translate in the native language of the parent or by other mode of communication used by the parent.

(d) Participants involved in conferences cited in subsections (a) and (b) shall include the following:

(1) Principal, or vice-principal, for initial placement and reevaluation conferences; except that if only an individualized education program is to be developed, the principal, may assign a designee, who is a person other than the child's teacher, who is qualified to provide or supervise the provision of special education;
(2) Child's teacher, if an individualized education program is to be developed;
(3) One or both of the child's parents;
(4) The child, where appropriate;
(5) Other individuals, at the invitation of the parent or the department;
(6) For an initial placement conference, a member

of the diagnostic team or a person who is knowledgeable about the procedure used to evaluate the child and is familiar with the results of the evaluation, and a person knowledgeable about placement options shall participate in the development of the individualized education program; and

(7) Should the parent fail to participate in the conference by personal appearance, writing, or telephone, a conference may be held without a parent in attendance, provided that a record of the department's attempts to arrange a mutually agreed upon time and place is kept. The parent shall be notified that the conference was held and of the parent's right to request a hearing. A copy of the IEP shall be provided to the parent as part of that notification. [Eff. JAN 6 1995] (Auth: HRS §296-12) (Imp: HRS §296-12; 34 C.F.R. 300.341, 300.343, 300.344, 300.345, 300.504, 300.533)

§8-36-12 Placement. (a) The department shall ensure that each child's placement shall be in the least restrictive environment and be:

(1) Determined at least annually;
(2) Based on the child's individualized education program; and
(3) As close as possible to the child's home.

(b) The department shall ensure that unless a handicapped child's individualized education program requires some other arrangement, the child is educated in the school which the child would attend if not handicapped.

(c) Initial placement shall be made as soon as possible following the completion of the individualized education program, unless:

(1) The meetings occur during the summer or a vacation period; or
(2) There are circumstances which require a short delay such as to work out transportation arrangements.

(d) Whenever an administrative or subsequent judicial proceeding pursuant to this chapter or 20 U.S.C. §1415(e)(2) is initiated or pending, the placement for the child shall be where the child was at the time the administrative proceeding was initiated, unless the department and parent agree to a different placement while any administrative or judicial proceeding is pending.

(e) If the administrative or judicial proceeding involves an application for initial admission to public school, the child, with the consent of the parents, shall be placed in the public school program until the completion of all the proceedings.

(f) If applying for initial admission to a public school, the child, unless the department and parent otherwise consent to an interim special placement, shall be placed in a regular public school program until all eligibility proceedings regarding this chapter have been completed. [Eff. [illegible]] (Auth: HRS §296-12) (Imp: HRS §296-12; 34 C.F.R. 300.342, 300.513, 300.550, 300.552)

§8-36-13 Mediation. (a) Upon mutual agreement of the parent and the department, a mediation conference may be scheduled prior to a request for a hearing or at any time prior to the hearing.

(b) The mediation conference shall be conducted by the district superintendent, if agreed upon by both parties, or by a mutually agreed upon appointee. In attendance shall be the parent and other individuals, the child, at the parent's discretion and when appropriate; and representatives from the school and district. At this conference the parties shall attempt to resolve any difference they may have.

(c) Mediation shall not be used to deny or delay a parent's or child's rights under this chapter. [Eff. JAN 6 1986] (Auth: HRS §296-12) (Imp: HRS §296-12; 34 C.F.R. 300.506)

§8-36-14 Impartial hearing. (a) An impartial hearing may be requested by a parent or the department on matters relating to proposed or refused action to initiate or change the identification, evaluation, program, placement of a child, or the provision of a free appropriate public education to a child. The party requesting the hearing shall go first in defining the issues and offering some evidence to show the nature of the dispute and the party's entitlement to relief from the hearing officer.

(b) A request for a hearing shall be made to the district superintendent. This request shall be in writing and shall state the reasons for requesting a hearing.

(c) After a request for a hearing is received, the district superintendent shall:
(1) Schedule the hearing; and
(2) Inform the parent of the:
(A) Date, time, and place of hearing;
(B) Name and qualifications of the assigned hearing officer;
(C) Parent's rights under section 8-36-15;
(D) Availability of any free or low-cost legal and other relevant services in the state and how to obtain them; and
(E) Availability of an interpreter, if needed.

(d) The hearing shall be held within thirty days of receipt of the request, unless an extension is sought and allowed pursuant to section 8-36-17 by the hearing officer.

(e) Not later than five days prior to the hearing, parties to the hearing shall make available to the other party and the hearing officer all evidence to be presented at the hearing unless by agreement of the parties, additional evidence may be submitted at the hearing.

(f) At any time prior to the hearing, a pre-hearing conference may be convened by the hearing officer or at the request of either party. The purpose of the conference is to allow both parties to state their contention so as to arrive at a clear understanding of the facts and issues involved in the request for a hearing. A pre-hearing statement submitted by both parties to the hearing officer may be arranged in lieu of a pre-hearing conference. Such pre-hearing statements may include each party's statement of the case, chronological or biographical information, or any other information which the hearing officer deems necessary.

(g) The hearing shall be conducted by an impartial hearing officer from outside the department designated by the superintendent.

(h) The hearing officer need not follow the formal rules of evidence.

(i) Any party to the impartial hearing or the hearing officer shall have the right to compel the attendance of witnesses upon subpoena issued by the hearing officer. The fees for attendance shall be the same as for the fees of witnesses compelled to appear in the state circuit courts, and the hearing officer may petition a circuit court judge of the judicial circuit in which the witness resides, to compel attendance of the person.

(j) The department shall keep a list, including a statement of the qualifications, of the persons who serve as hearing officers. The department shall make the list available to members of the public upon request. [Eff. JAN 6 1986] (Auth: HRS §296-12) (Imp: HRS §§91-10, 296-12, 301-28; 34 C.F.R. 300.506, 300.507, 300.508)

§8-36-15 Hearing rights. (a) Any party to a hearing has the right to:

(1) Be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of handicapped children, and by other individuals at their invitation;
(2) Present evidence and confront, cross-examine, and compel the attendance of witnesses upon subpoena issued by the assigned hearing officer, submit rebuttal testimony, and require witnesses to be under oath;
(3) Prohibit the introduction of any evidence at the hearing that has not been disclosed or for which no agreement for later disclosure exists, at least five days before the hearing;
(4) Obtain written findings of fact and decision; and
(5) Make, at their own expense, a tape recording or transcript of the hearing. (The department, upon request, shall make available to parents, at cost, a tape recording of the hearing or may waive the cost in appropriate cases.)

(b) Parents have the right to:

(1) Have the child who is the subject of the hearing present;
(2) Open the hearing to the public; and
(3) Have the hearing conducted at a reasonably convenient time and place. [Eff JAN 6 1986] (Auth: HRS §296-12) (Imp: HRS §§91-10, 296-12; 34 C.F.R. 300.508)

§8-36-16 Hearing decision. (a) After the close of the hearing, the hearing officer shall render a decision in writing, stating clearly the action to be taken and the reasons therefore. The decision shall be based on the record and supported by substantial evidence. The decision shall be concurrently delivered to the parent, district superintendent, and the state superintendent. The written decision of the hearing officer shall be in English and, when appropriate, in the native language of the parent.

(b) A copy of the decision shall be delivered no later than forty-five days after the receipt of the request for the hearing. A notice informing the parent of the thirty day deadline described in subsection (c) shall be delivered with the decision.

(c) The decision made by the hearing officer shall be final, provided that any party aggrieved by the finding and decision has the right to bring a civil action within thirty days after the decision is delivered to that party. [Eff. JAN 6 1986] (Auth: HRS §296-12) (Imp: 20 U.S.C. §1415, HRS §§91-10, 91-12, 91-14, 296-12; 34 C.F.R. 300.509, 300.511, 300.512)

§8-36-17 Extension of time limits. (a) A hearing officer may grant specific extensions of time beyond the forty-five days stated in section 8-36-16(b) at the request of either the parent or the department for good reason.

(b) Other time limits specified in this chapter may be reasonably extended due to:

(1) A delay in the receipt of reports of evaluations or recommendations from non-departmental professional personnel;
(2) The time needed to obtain an interpreter, or translate in writing the required written material in the native language of the parent, or both;
(3) Mutual agreement between the parent and the department. [Eff. JAN 6 1986] (Auth: HRS §296-12) (Imp: HRS §296-12; 34 C.F.R. 300.512)

§8-36-18 Relating to misconduct and discipline. (a) "Crisis suspension" as defined and provided for in chapter 8-19, Administrative Rules, entitled "Student Misconduct, Discipline, and Reporting Offenses", may be used to discipline handicapped children, when the circumstances for imposing such a sanction, as set forth in chapter 8-19, arise. Immediately after crisis suspending a handicapped child, the review procedures of subsection (b) shall apply.

(b) Whenever a principal has reason to believe that a handicapped child has engaged in behavior which appears to warrant disciplinary action other than a crisis suspension, or whenever a handicapped child has engaged in behavior which results in a crisis suspension, the principal shall immediately conduct a review of that behavior with the child's teacher and other appropriate personnel for the purpose of determining whether the child's behavior did or did not result from the child's handicapping condition, or an inappropriate program or placement or both. Persons whom the principal selects to assist in this review shall be familiar with the child, the child's program and placement, or the child's particular handicapping condition.

(c) No disciplinary action other than the "crisis suspension" permitted under subsection (a), shall be imposed if it is determined that the handicapped child's behavior resulted from the handicapping condition, or an inappropriate program or placement or both. The principal shall immediately deliver a notice to inform the parent of that determination and initiate a conference to review the child's individualized education program. The individualized education program shall be revised as necessary.

(d) In addition to the crisis suspension under subsection (a) above, other disciplinary action as defined in chapter 8-19, Administrative Rules, may be imposed, if it is determined that the handicapped child's behavior did not result from the handicapping condition, or an inappropriate program or placement or both. In determining the length of suspension for a special education student and the type of substitute educational activities to be provided, the principal or designee shall consider the effect of the length of suspension and the educational needs of the student as described in the child's individualized education program. The procedures, including the right to a hearing, which are set out in chapter 8-19 shall be applied to impose disciplinary action against the child. At the same time, the principal shall immediately inform the parent of the determination that the child's behavior did not result from the handicapping condition, or an inappropriate program or placement or both, and of the right to initiate an impartial hearing under chapter 36, section 8-36-14 on that determination. If an impartial hearing under chapter 36 is requested, disciplinary action shall not be imposed, if not yet initiated, or shall be discontinued, if already initiated, while any administrative or judicial proceeding is pending, unless the department and parent agree otherwise.

(e) The district superintendent shall ensure that substitute educational activities in accordance with the child's individualized education program are provided to all children who are crisis suspended or suspended for a period exceeding five days, or dismissed, pursuant to subsections (a) or (d) above. [Eff. AN 6 1986] (Auth: HRS §296-12) (Imp: HRS §296-12)

§8-36-19 Relating to transportation. (a) The related service of transportation, if specified in the individualized education program, shall be provided at no cost to parents to any one or more of the following:

(1) To and from school when the child is unable to utilize the regular modes of transportation;

(2) Between the child's school and other sites where services specified in the child's individualized education program are provided; or

(3) In and around the child's school and other sites where services specified in the child's individualized education program are provided.

(b) If transportation is to be provided as a related service, the transportation to be provided shall be described in the child's individualized education program as:

(1) Transportation to and from school; or

(2) Transportation to implement the child's individualized education program; or

(3) Transportation to and from school and to implement the child's individualized education program.

(c) The parents of a handicapped child who is determined not to require transportation as a related service under this section may apply for transportation as provided in chapter 8-27, Administrative Rules, entitled, "Transportation of Students". All applications and issues arising in connection with the applications and services shall be subject to chapter 8-27.

(d) A parent or the department may request an impartial hearing on matters relating to any proposal or refusal to provide transportation as a related service, pursuant to section 8-36-14. [Eff. JAN 6 1986] (Auth: HRS §§296-12, 296-45) (Imp: 20 C.F.R. §§300.1(a), 300.4, 300.3(a), 300.13(b) (13), 300.550(b) (2), 300.552(d); HRS §§296-45, 301-22, 301-25)

Appendix D

STATE STANDARDS

Listed below are the state requirements for serving handicapped children in Hawaii. The reader will note that these standards are organized and discussed according to the sequence outlined above.

STANDARD #1: IDENTIFICATION

All children suspected of having a handicapping condition or having problems that interfere with success in school will be identified, located and screened to determine appropriate in-school programming or the need for referral for formal diagnostic evaluation. The identification and screening processes include:

- An annual search to locate unserved handicapped children
- An ongoing system of school-level screening
- Referral to district for diagnostic evaluation after exhausting all school resources

Initial identification of children and youth potentially eligible for special education services in Hawaii can be made utilizing three procedures: survey/search, screening and referral. These procedures are designed to locate unserved handicapped children and youth as well as those already in the schools who may require further educational evaluation and/or placement in an appropriate special education program or service.

An annual search of the community shall be conducted by each school district to locate and identify handicapped children and youth who may not be enrolled in school or may not be receiving any kind of special educational program or service.

The purpose of screening at the school level is to identify those students who are having difficulty in their current placement in order that they may be provided the most appropriate services. If screening processes accurately select students needing further services, then compounding a student's problems can be prevented by appropriate educational interventions.

School resources should be investigated and solutions sought at the school level whenever possible. When it is determined that a student needs additional evaluations or services, a referral should be made to the district office for appropriate action.

In order to identify students with potential handicapping conditions or other problems that may interfere with their success in school, each district should have a systematic and ongoing school-level process to screen students who may be in need of individual, formal, comprehensive educational evaluation and/or other special interventions.

Parents' contact with the schools takes place during registration and at parent conferences. At these times, forms are completed and interviews may be held with school personnel. Salient input from parents is solicited regarding possible special needs, the results of any previous assessments, the history of treatment received for handicapping conditions and all other pertinent background information.

School-level screening of students at the earliest possible age is conducted on a regular basis by regular education teachers. Regular education teachers must play an active part in screening. Because they are in daily contact with the target population of students from the regular classes who may be in need of special services, regular education teachers are in the best position to:

- Assess students developmentally in relation to their peers
- Observe student behavior in a variety of contexts--in the classroom, on the playground, in large and small groups and in different subject areas
- Observe student behavior over periods of time
- Observe student interaction with others--peers, teachers and other adults, those younger than themselves
- Assess achievement level

In addition, regular education teachers have valuable family contacts and access to past school records that can contribute greatly to an understanding of a student's learning problem(s).

Screening programs should be coordinated by school personnel. Screening may include informal assessment by teachers and/or other appropriate personnel in the following areas:

- Reading
- Mathematics
- Speech/Language
- Social/Emotional Development
- Motor Development

Significant health data with educational implications should be considered. These may include:

- The results of formal hearing tests
- The results of testing for vision

- The reports of physicians, public health nurses and other appropriate professional health personnel in identifying multiple handicaps, orthopedic conditions and other health impairments

A school-level screening committee should establish and help implement the school's screening procedures, as well as conduct ongoing evaluations to determine the appropriateness of these procedures. The screening committee should be composed of, but not limited to:

- A building principal, vice-principal and/or counselor
- Diagnostic team member
- Public health nurse when appropriate
- Special and/or general education teacher

Provided with information and data on specific students, the screening committee shall examine the data and recommend students for referral for special services.

However, prior to referral of a student for educational evaluation, all efforts shall be made to best meet such a student's needs within the context of the services which are part of the regular education program. In addition, all efforts shall be made to modify the regular education program to meet such needs.

STANDARD #2: REFERRAL, DUE PROCESS AND CONFIDENTIALITY

Beginning with the referral process, assurance of due process as detailed in Hawaii Department Procedures for Implementing Rule 49, Relating to Changing the Educational Status of Exceptional Students (Revised 1977), shall be guaranteed. Confidentiality of data shall be maintained as required by Hawaii Department Procedures for Implementing Rule 50, Relating to Confidentiality of Data.

STANDARD #3: DIAGNOSIS

Each student found to be in need of diagnosis shall receive a formal diagnostic evaluation to determine educational needs. A formal diagnostic evaluation shall include:

- A multidisciplinary assessment appropriate to the degree and type of the presenting problem
- Tests administered which are as free of discrimination as possible considering the population upon which they were standardized and the population to which they are administered
- Tests administered in the child's primary language
- Tests administered by personnel qualified to do so
- Trained examiners to interpret the elements in each test which would be discriminatory against certain populations

No one test or type of test or other single means of evaluation shall be used as the sole criterion for placement.

Diagnosis is the process of determining student characteristics and functioning of an educational, sociological, physiological and psychological nature. The purpose of diagnosis is to identify and describe in a written report the child's educational, social, emotional and physical strengths and weaknesses and to recommend strategies to meet the child's needs, including eligibility for special education.

Each district shall provide specially trained personnel to identify all children with suspected handicapping conditions, diagnose the educational nature of the handicapping conditions, develop and assist teachers in implementing educational programming recommendations, and review the appropriateness of the educational placement. The specific services to be provided under this category shall be psychological testing and evaluation, social work services, speech and language evaluation and educational diagnostic and prescriptive services. Additionally, personnel providing the diagnostic services may provide direct assistance in the area of their specialization to special education.

Diagnostic personnel shall assume the following responsibilities:

- To consult and work directly with a student's teacher(s), other school personnel and parents
- To participate in case staffings and meet with school and district personnel, other agency personnel and with parents to help formulate needed recommendations
- To make referrals to and obtain information from appropriate agencies

- To perform preliminary evaluations of students referred to the diagnostic pesonnel through review of test data and other information in the cumulative record folder, through use of informal assessment procedures and classroom observations, and through consultations with the student's teacher(s), other school personnel and parents

- To perform formal, comprehensive, nondiscriminatory, individual educational evaluations

- To review all evaluation data and make recommendations concerning changes in educational status of students

- To participate in the development and to assist in the implementation of the student's indiviualized education program plan with the teacher(s), parent(s) and, when appropriate, the student

- To ensure due process and confidentiality to te child and parents

- To assume responsibility for collecting data for statistical purposes in respective areas

- To keep abreast of current literature and to keep thoroughly conversant with research and development related to individual expertise

A diagnostic delivery system will be developed, implemented and evaluatd to provide a continuous process for the formal diagnostic evaluation of children who may need special education or services. Such a procedure will assure that each child identified, referred and screened for an educationally handicapping condition will receive a multidisciplinary diagnostic evaluation to describe both strengths and weaknesses.

A history of each child will be obtained. Such a history will include only information necessary for educational planning, gathered from the child, parents and school personnel, as well as any public or private agencies to whom the child is known. The history will be gathered in the family's primary language with assurances given that such information remains confidential. Only the child, parents, appropriate school personnel and authorized agency personnel will have access to the information. The history will relate to:

- A statement of the problem under consideration

- Data pertaining to medical, developmental, social and psychological information, as well as educational and cumulative records

- A description of family and sibling relationships and the environmental factor and circumstances, as necessary for educational planning

Both informal and formal observations of the child will be made. Such observations will be made in both group and individual settings, including the home, school and community.

Any testing procedure will provide, in advance, the following assurances:

- The diagnostic procedure will be explained to the parents in both oral and written form in their primary language.
- The parents will provide written permission for a diagnostic evaluation before any individual testing takes place.
- The parental communication will take place with a surrogate parent/guardian if parents are unavailable, unknown, or the child is a ward of the State.
- Each step of the process will be completed as soon as possible.
- Parents will be informed of the diagnostic findings and will be involved before final decisions are made regarding services to be received by the child.
- The child may be involved in the decision-making process when appropriate.
- The diagnostic information will be confidential and released only to the parents, when appropriate to the child, to authorized educational personnel, and when written parental permission has been obtained.
- The parents will have the right and option to seek a third-party, independent evaluation.
- The hearing procedure will be followed when parental permission is denied.

Formal comprehensive evaluations will include, but not be limited to, at least the following:

- Psychological evaluation, including individually administered intelligence measures
- Assessment of adaptive behavior
- Medical and developmental history
- Current physical status
- Academic history and current functioning
- Speech/hearing/language evaluation
- Classroom observations
- Social/family history

STANDARD #4: STAFFING CONFERENCE

A multidisciplinary staffing conference will be used to analyze and interpret all diagnostic material and to develop recommendations for changes in educational status in accordance with eligibility criteria as specified in subsequent chapters of this handbook.

The multidisciplinary staffing conference shall include those involved in the diagnostic evaluation and others, as necessary, to determine eligibility for special education based on criteria established for each handicapping condition. It shall result in a written report which contains:

- A statement of the referral problem
- A review of the diagnostic evaluation findings
- Reports from the parent(s), child and significant others having previous contact with the child
- An evaluation of the child's current academic progress, including a statement of the child's learning style
- Recommendations for change in educational status

STANDARD #5: DETERMINATION OF ELIGIBILITY

After a review of the staffing conference recommendations, determination of the child's eligibility for special education shall be made in accordance with the procedures and policies of DOE Rule 49, revised 1977.

STANDARD #6: CONFERENCE WITH PARENTS

Parents will be informed of the diagnostic findings and parent approval will be obtained prior to subsequent individualized education program plan development.

STANDARD #7: DEVELOPMENT OF A WRITTEN INDIVIDUALIZED EDUCATION PLAN

There shall be a written individualized education program plan for each handicapped student, developed jointly with the parent(s) or guardian of each child and, where appropriate, the child. The plan will be reviewed at least annually and revised when necessary.

The written individualized education program plan shall include:

- A statement of the student's present level of educational performance
- A statement of annual goals, including short-term objectives
- A statement of the specific educational programs and related services to be provided and the extent to which the child will be able to participate in regular education programs
- The projected date for initiation and anticipated duration of such services
- Appropriate objective criteria and evaluation procedures and schedules for determining whether instructional objectives are being achieved

STANDARD #8: IMPLEMENTATION OF THE INDIVIDUALIZED EDUCATION PROGRAM

Each handicapped child's individualized education program plan shall be reviewed and revised, if appropriate, periodically but not less than annually.

Educational programs and services shall be provided in accordance with specifications in a handicapped child's individualized education program plan.

According to the Hawaii School Code: Policies and Regulations, Section 2150.2.2:

> There shall be an annual evaluation of all students placed in special classes. All students able to profit from placement in regular classes shall be transferred to such classes.

The programming for a student in a special education program must be annually assessed, with parental involvement, in a manner that will ensure maintenance of the best learning conditions for that student. All information relative to continued placement of a student in a special education program will be considered. If the desired learning is occurring, the feedback supports the modifications that have been implemented. If the desired learning is not occurring, consideration is given to further evaluation of specific learning needs and/or educational program modifications.

The special education teacher who has responsibility for the annual as well as the regular daily and reporting period evaluation procedures needs to have a reliable method of assessment within the construct of the daily classroom routine. Following the initial establishment of the individualized education program plan, evaluation procedures should be in terms of that plan. Both short-term and long-term objectives of the plan need to be evaluated, as well as the content of the educational program.

In implementing educational programs and services, the least restrictive environment available to meet the needs of the individual child must be provided within the following continuum of educational arrangements:

- Contracted educational services
- Special education school
- Full-time self-contained
- Integrated self-contained
- Resource services
- Itinerant services

In providing educational programs and services, resources shall be matched to the individual child's identified needs. Resources include:

- Appropriately trained and certified staff meeting requirements specified in Hawaii School Code, Policies and Regulations #5301 and #5302
- Staffing in accord with the requirements under Staffing Standards and Allocation Procedures for State-Funded Special Education Institutional Positions (Dept. Procedures 75-42)
- A full range of appropriate instructional materials
- Educational facilities as specified in the Hawaii Department of Education's Educational Specifications for Buildings and Facilities
- Transportation as specified in Hawaii Department of Education's Rule 1

STANDARD #9: COMPREHENSIVE RE-EVALUATION

A comprehensive re-evaluation of a handicapped child shall be conducted every three years, or more frequently if conditions warrant, or if the child's parent or teacher requests an evaluation. Rescission or change of eligibility for special education shall be determined only after the comprehensive re-evaluation.

The primary purpose of comprehensive re-evaluation is to determine whether the child's present placement is still appropriate and in the least restrictive environment. Teachers should present evidence of a student's progress or lack of progress and testing needs and assist in the decision making regarding continued special education placement and/or future educational programming.

The decision for or against rescission should be determined by the student's ability to function full-time without special education support in the regular education program. Parents shall be involved in this decision-making process.

Due process rights as specified by departmental procedure for the implementation of Department of Education Rule 49 (revised 1977) will be guaranteed.

Appendix E

IMPLEMENTATION GUIDELINES FOR THE EMOTIONALLY HANDICAPPED

CHILDFIND

Identification

Unlike many of the more handicapping conditions affecting school-age children, some emotionally handicapped students are more easily recognizable in school. Even in a class composed of children with various handicapping conditions, the acting-out student is more likely to be noticed first, whereas the withdrawn, anxious youngster may be more easily overlooked.

However, in identifying the emotionally handicapped, a distinction must be made between those students who present behavior problems from those who are emotionally handicapped. The emotionally handicapped student presents behavior problems, yet not all behaviorally disordered students are emotionally disabled to the extent that they are eligible for special education. For example, socially maladjusted students are not considered handicapped according to The Education for All Handicapped Children Act (P.L. 94-142). However, an alternative learning situation for alienated students may still meet their needs most appropriately.

Although alienation is not recognized as a handicapping condition, this condition might appear in the profile of a student identified as handicapped for other reasons. It refers to a deviant pattern of social interaction characterized by delinquent behaviors which may not be resolved adequately with the assistance of authority figures and which may interfere with the well-being or property of others. Although this condition requires special attention, it is not, by itself, considered symptomatic of an emotional handicap.

Another problem in identifying the emotionally handicapped population is the lack of a clear definition of mental health. Logically, the emotionally handicapped student would not exhibit some components of such a definition. Haring (1978) list some characteristics which describe some attributes of a mentally healthy child:

1. Maintains a realistic understanding of self and an acceptance of self as a worthwhile person (a positive self-concept);
2. Builds and maintains positive relationships with other people (interpersonal or social skill);
3. Perceives reality accurately, including setting goals which are attainable;
4. Organizes thoughts and actions appropriately;
5. Achieves academically at a level which is reasonable for the child's abilities; and/or
6. Generally acts the way a person the child's age and sex is supposed to act and is able to function independently (p. 126).

Conversely, the emotionally handicapped child might be described in the following way:

1. Possesses an unrealistic and/or negative self-concept;
2. Experiences serious interpersonal problems;
3. Distorts reality, including either unattainable or unrealistically low goals;
4. Is disorganized in thought and in attempts to carry out meaningful action;
5. Achieves academically below the level expected based on ability; and/or
6. Generally behaves inappropriately for his or her own age and sex and is excessively dependent on others (p. 126).

Obviously the above lists are rather subjective, many of the terms being hard to define precisely. Indeed, all children possess some of these characteristics from time to time. It is only when these effects are chronic and disrupt learning that they become educationally significant, a handicapping condition which requires special education. Those students under temporary stress who exhibit the above symptoms in response to some personal trauma, e.g., death of a parent, may require maximum intervention from school and community resources, but would not be eligible for special education.

The abused or neglected child is one who is considered at risk for an emotional handicap due to the stressful nature of the environment in which the child must live. One would not likely expect much to be gained in the classroom while such deleterious conditions exist in the home or vice versa. According to Hawaii Revised Statutes (Chapter 350: Child Abuse), abuse or neglect of a minor includes:

> ...Physical injury, psychological abuse and neglect, sexual abuse, negligent treatment or maltreatment of a child under 18 years of age under circumstances which indicate that the minor's health or welfare has been or is harmed or threatened thereby.

When an educator or other professional observes any of the above conditions, an oral report must be made immediately to Children's Protection Services (Oahu: 947-8511; Kauai: 245-4347, 244-4350; Molokai: 553-5349; Lanai: 565-6409; Maui: 244-4256; Hawaii: 961-7251). Chapter 350-3 states that those who must report include:

> ...any person licensed by the State to render services in... examining, attending, or treating a minor, or any registered nurse, school teacher, social worker, police officer,...having reason to believe that such minor has had injury inflicted upon him as a result of abuse or neglect by parents or those responsible for that child's care shall promptly report the matter orally to the department of social services...(which) shall be followed as soon thereafter as possible by a report in writing.

It also insures the informant "immunity from any liability, civil or criminal, that might be otherwise incurred or imposed by or as a result of the making of such a report. Any such participant shall have the same immunity with respect to participation in any judicial proceeding resulting from such report." However, it must also be noted that failure of any of the above parties to report such evidence is a misdemeanor. The State Attorney General's Office advises that "it is better to err on the side of concluding an abuse is present in the best interest of the child involved" as "the protection afforded...should obviate any fears of liability arising from any good faith action" (Memo to Superintendent, October 29, 1980).

Screening

The surveillance of the mental health status of the school population is equal in importance as knowledge about physical health and school achievement. Such information is critical for overall planning, early intervention and prevention. High incidence areas of emotional instability, as indicated by broad community and individual school surveys, provide a basis for intensification of both mental health services and plans for rectifying conditions which generate emotional problems for students.

While there is a natural screening process through teacher referrals, medical referrals, parents' requests and even requests from the students themselves, this process is haphazard and characteristic of the more extreme situations. The general reticence of the public concerning mental health matters makes it necessary to employ systematic approaches to screening in order to locate children whose difficulties may not be as salient as those whose overt behaviors naturally bring the attention of the school and community.

All schools should conduct periodic studies of student mental health status. In fact, the first registration interview when the child is enrolled in school affords an opportunity for initial screening for a handicap. While screening can be done by clinical personnel or with assessment instruments, these procedures may be more extensive than is necessary. Research has shown that teachers, when properly informed, provide good screening services. Using an open-ended format, they may be asked to indicate those pupils who deserve further attention because of the ways they are functioning in the school.

There are also formal rating checklists to assist teachers in systematic coverage of significant behavior areas (see "Screening Instruments" on page EH 106). The teachers are asked to indicate the severity of problems as they see them (mild, moderate, or severe) as well as information on students' functional levels. Care should be exercised to prevent referrals due to normal cultural differences which do not represent deviant behavior, and where there are disproportionate representations of ethnic populations, careful examination must be made in the context of these cultural differences. The effects of teacher bias, poor instruction, and frequent absenteeism must be considered as well.

Screening is the first stage in locating the population who may need some type of assistance, but it does not diagnose the cause nor nature of the learning problem. If the number of children suspected of being emotionally handicapped exceeds general expectations, the local ecological factors must be studied to determine whether the teachers in a given school are unusually sensitive to such matters. A disproportionately high number of referrals may also indicate that the school program itself is stressful and in need of modification.

The sources of referrals for the population to be evaluated diagnostically include the following:

- School-level screening committee
- Any other school personnel
- Parents' requests
- Student self-referrals
- Referrals from other personnel or agencies, e.g., Department of Health, Department of Social Services and Housing

Screening may identify students who are in a transitory stressful state, those who have minor, chronic mental health problems, as well as those who present major difficulties. A plan is formulated for those students who have less severe problems, who are designated as "children in need of special assistance." Though they are not eligible for special education services, other resources are utilized, including alienation program counselors, school counselors and school social workers, all of whom may play a vital role in helping these students who are not eligible for special education.

In order to distinguish those "children in need of special assistance" from those who are "suspected of being handicapped" and require a comprehensive diagnostic evaluation, the following procedures should be followed by the screening committee in each school:

1. The identification (pinpointing) of specific target behaviors which present learning and/or adjustment problems in the classroom and the measurement of target behaviors along these dimensions:
   a) Frequency = the number of time the target behavior occurs per unit time, e.g., six times per hour;
   b) Intensity = the relative seriousness of the target behavior, the degree to which it disrupts the student's own learning and is resistant to change;
   c) Duration = the average length of time for which the target behavior persists, e.g., ten seconds, two minutes;
   d) Context = the setting in which the target behavior occurs inappropriately, i.e., target behaviors for the classroom may differ from those for the playground;
   e) Chronicity = the overall period of time during which the target behavior has been occurring regularly, e.g., ten months, two years;
   f) Quantity = the number of target behaviors pinpointed.

2. The listing of all interventions undertaken in the school to stem target behaviors:
   a) parental involvement
   b) behavior modification strategies
   c) alternative instructional methods
   d) curricular adjustments
   e) school counselor services
   f) District services, e.g., school psychologist, resource teacher
   g) consultation with Division of Mental Health Children's Team

3. An accounting of the effects of the above interventions (#2) along the above dimensions (#1, a-f), e.g., "the frequency of out-of-seat behavior decreased 50% as a result of the parents' rewarding the child with extra time to watch TV for teacher reports of an increase in in-seat behavior."

4. Once all possible school level resources have been exhausted (#2) and there is evidence that these interventions have not been effective in significantly decreasing target behaviors (#3) in the regular setting, this child may be "suspected of being handicapped" and referral for comprehensive evaluation (Form 29/042) may be indicated. Attach #3 to referral.

Referral

Once all possible resources to deal effectively with the student at the school level have been exhausted, a referral is made to the District Diagnostic Personnel. If the child is not in attendance in public school, the student is registered in the child's neighborhood public school and referred to the district for a comprehensive diagnostic evaluation. Referrals should include a description of the student's problems as well as interventions implemented at the school level to deal with the problems that the student presents.

APPRAISAL

The following assessments are included in the total comprehensive evaluation. All findings are reported for programming, administrative, and legal purposes.

Teacher evaluation. The regular classroom teacher can provide many insights into the educational difficulties of the referred child. Anecdotal records of classroom behavior might be included with an emphasis on the student's strengths and weaknesses. If there is a specific inappropriate behavior displayed by the child, a detailed observation record of that behavior may be incorporated as a portion of the evaluation. Representative examples of the student's school work may be included also.

Family History. The parent(s) or guardian(s) can provide important information about the child and may be requested to record specific behaviors which occur at home. Behavior checklists, developmental schedules, and other standardized instruments might also be completed by the parents as parts of the total evaluation. Also, an interview with the parents may disclose certain feelings about the student which, when understood, may bring about improved interactions in the home and emotional adjustment.

Intellectual Assessment. The psychometric assessment is an integral part part of the comprehensive evaluation. Although this evaluation takes a relatively short time, the psychometrician can observe many characteristics of the student's personality as well as learning style. The types of tests used in intellectual assessment often vary according to these characteristics, as well as the age of the student.

Academic Assessment. The academic assessment reveals the student's levels of functioning in a variety of academic areas, and often includes observations of the student in the regular educational setting. Data indicating student's interests are often discovered here.

Speech and Language Assessment. The speech and language assessment reveals the student's level of functioning in the areas of speech, language, and hearing. The relative integrity of these areas often points out areas in need of programming.

Clinical Evaluation of Mental Health Status. Clearly, some emotionally handicapped students may require only minimal special education assistance once their needs are met with mental health services, whereas others may benefit only from an intensive joint effort of mental health services and special education. Vital data in the determination of the most appropriate placement for each individual student may come from the clinical evaluation of mental health status. The diagnosis provided by this evaluation is an integral component in determining whether a student is eligible to receive special education services, although a positive diagnosis does not mandate special education eligibility, i.e., a child may have a mental disorder which does not require special education programming and placement. Recommendations for special education eligibility are made by District Diagnostic Teams on the basis of all available data on a child's ability to function in the school setting.

The clinical evaluation may be predicted upon observation of the identified student in a variety of naturalistic settings both in and out of the school environment, yet not to the exclusion of collecting extensive interview data concerning the student's own perceptions of the conditions and of possible resolutions.

Only those students who present chronic disturbances are identified as emotionally handicapped. Students with divergent lifestyles which do not interfere with or endanger others or themselves may not be eligible for special education. While some cutural subgroups may not adhere to certain specific instructional expectations, subcultural modes of adjustment do not in themselves constitute a threat to the individual or others. The normal products of cultural pluralism may not be descriptors of emotional deviance.

However, this does not exclude those nonhandicapped students suffering from transient disorders from receiving crisis assistance and support to recover from what may be a normal circumstantial response to a personal trauma. Indeed, this temporary intervention is often a preventative measure to ensure that an acute situational disturbance does not result in a chronic handicapping condition.

Special education should also be given to pupils with emotional problems in combination with sensory, motor, intellectual limitations or cultural deprivation. Although a student may not be categorized as emotionally handicapped, adequate provisions should be made for the emotional problems of students with other handicapping conditions.

Eligibility Criteria

Eligibility for special education programming for an emotional handicap may only be recommended once the comprehensive evaluation has been completed. It is apparent that normal students and adults may present some of the following characteristics during periods of stress; the crucial factors which distinguish an emotional handicap, however, rest in the determination of whether these behaviors vary significantly from the norm in frequency, intensity, duration, context, chronicity, or quantity (see Page EH 31).

A checklist is included on page EH 141 of this document which may be helpful as a handy reference for screening committees and diagnostic teams in determining whether a student may be eligible for special education due to an emotional handicap. The following criteria must be met for such a recommendation to be made:

A. Inclusion Factors: In order for special education eligibility to be granted for an emotional handicap, a student must present all of the following.

   1. Evidence that, after all supportive educational assistance, counseling services, parent conferences, and curricular adjustments available in the regular setting have been exhausted, a student persists in exhibiting an emotional disorder which interferes with the student's own learning;

   2. Evidence that an emotional disorder exists, as documented by observation, interview, and evaluation by a state-certified or licensed psychologist, or a licensed physician;

   3. Evidence that an emotional disorder is chronic, i.e., it has persisted for approximately one year;

4. Evidence that an emotional disorder disrupts a student's own academic progress to a significant degree.

B. Exclusion Factors: The presence of any of the following factors excludes a student from special education eligibility for an emotional handicap:

1. Evidence that the student's learning problem can be attributed primarily to sensory or other health factors, e.g., autism, hearing impairment, chronic asthma;

2. Evidence that the student's learning problem can be attributed primarily to cultural differences;

3. Evidence that the student's learning problem can be attributed primarily to mental retardation;

4. Evidence that the student's learning problem can be attributed primarily to a specific learning disability;

5. Evidence that the student's learning problem can be attributed primarily to an alienated condition, rather than an emotional disorder (see State criteria for "alienated" and "severely alienated" on page EH 23).

C. General Characteristics: In order for special education eligibility to be granted for an emotional handicap, a student must chronically exhibit one or more of the following general characteristics:

1. An inability to learn that cannot be explained by intellectual, sensory, nor health factors;

2. Inappropriate types of behavior or feelings under normal circumstances;

3. A general mood of unhappiness or depression;

4. A tendency to develop physical symptoms, pain or fears associated with personal or school problems;

5. An inability to develop or maintain satisfactory interpersonal relationships with peers and teachers.

D. Specific Characteristics: In order for special education eligibility to be granted for an emotional handicap, a student must chronically exhibit one or more of the following specific characteristics:

1. Avoidance or Aggressiveness in play: stays away from other children, always plays alone, leaves a group a children when an activity is going on; bites, hits, bullies, fights, instigates fights, starts vicious rumors;

2. Avoidance of Adults: stays away from adults, does not like to come to adults for attention, reticent;

3. Stereotypy: exhibits repetitive movements or repeats words over and over, cannot stop activity, perseverative;

4. Ritualistic or Unusual Behaviors: has a fixed way of doing certain activities in ways not usually seen in other children; has an obsessive desire to maintain sameness, unduly upset if routine is changed;

5. Resistance to Discipline or Directions: impertinent, defiant, resentful, destructive or negative, does not accept directions or training, disagreeable, hard to manage, destroys materials or toys deliberately;

6. Inappropriate Conduct Behavior: lying, stealing, excessive profanity, masturbation, sex play, undressing, cruelty, running away;

7. Unusual Language Content: bizarre, strange, fearful content; excessive jargon, fantasy; very odd or different talk with others or in stories;

8. Physical Complaints: talks of being sick, hurt or tired; lacks energy; malingering;

9. Echolalia: repeats another person's words without intending for the words to mean anything; failure to use speech for purposes of communication;

10. Self-Injurious Behavior: physically hurts self, takes bizarre risks, dangerous play; self-derogatory (says negative things about self);

11. Hypersensitivity: moody, irritable, sad, temperamental, easily depressed, unhappy, shows extreme emotions and feelings, overreacts;

12. Withdrawal: daydreams excessively, does not mingle freely with other children, submissive, obsequious, complies without much show of feeling (but may occasionally "blow-up"), excluded by other children; lacks friends, tends to be an "isolate", out of touch with reality;

13. Anxiety: wants constant reassurance, has nervous mannerisms fidgets, bites nails, chews pencils, etc,; never satisfied with own performance, tends not to finish tasks, compulsive, persistent, tends to over-study; preoccupied with disaster, accidents, death, disease, violence;

14. Self-Stimulation: persistent behaviors such as flicking fingers in front of eyes, shaking hands or head, rocking, twirling, etc,;

15. Attachment to Objects: extreme preoccupation with odd objects with no regard for their intended use;

16. Non-Responsive Behaviors: lacks eye contact, extreme aloofness, reticence, persistent tendency to turn away or look past other people, especially when spoken to;

17. Immature Behaviors: prefers only younger playmates, frequently cries, crawls around room, exhibits poor coordination;

18. Inappropriate Vocalizations: laughing, giggling, screaming, yelling, and crying for no apparent reason.

PROGRAMMING

Individualized Education Program (IEP)

Once the comprehensive evaluation has been completed, the diagnostic team meets in order to recommend the appropriate eligibility for the student evaluated on the basis of the data collected and interpreted. After the team agrees on a recommendation, the Diagnostic Summary and Recommended Services (DSRS) form is completed. This is a statement of the following:

a) Diagnostic Data/Functional Performance Level,
b) Areas Recommended for Special Education Services,
c) Recommended Related Services (when appropriate),

for the following categories:

I. Achievement Levels
II. Speech/Language Skills
III. Behavior Data
IV. Learning Style
V. Relevant Medical-Developmental Data
VI. Relevant Social-Family Information

Recommendations rendered here are wholly in response to the student's diagnostic profile which initially is the main contributor to the Individualized Education Program (IEP).

An IEP is a written statement of the student's annual goals and short-term instructional objectives based upon present levels of performance; program services and resources to be provided to meet the goals and objectives; dates for initiation and duration of program of services; criterion levels for the achievement of objectives; evaluation procedures; schedules for determining whether goals and objectives are achieved and extent of participation in regular education.

Parents and the student's themselves, when appropriate, are members of the IEP team along with the principal or appropriate designee, special education teacher, and others at the request of the parents or Department. Their input is crucial in the development of an appropriate plan based upon all assessed and stated needs. Meeting of the whole IEP team to evolve the plan ensures agreement, communication, and partnership between home and school.

IMPLEMENTATION GUIDELINES FOR THE VISUALLY IMPAIRED

There are three basic models of services to be considered: state schools, resource rooms and the itinerant teachers. Before placement in any program, attention must be given to locating and assessing visual loss to determine if it is significant enough to require a modified educational program. Then, the needs must be matched with the program that can best meet individual needs. Of course, continual reassessment and flexibility are essential for the visually impaired student.

CHILDFIND

Occasionally parents are reluctant to admit that they have a visually impaired child and may keep him or her hidden in the home. Such parents may be unaware of the educational alternatives for their child. Others view any disability as a stigma and react with shame, embarrassment or guilt. Therefore, a vigorous program of childfind is needed to locate those children, some as old as fourteen, who are still hidden away in homes without having spent one day in school. Parents of low-vision children frequently have a tendency to reject all services for the blind because they perceive their child is "sighted" and not "blind." Finally, some parents simply resent the invasion of privacy and respond with "It's none of your business."

In light of these attitudes and practices, childfind procedures must be comprehensive.

A majority of referrals come from early childhood or early elementary schoolteachers who are knowledgeable about the symptoms and the services available. Also, allied professionals such as pediatricians, public health nurses, social workers and the clergy, make referrals. The general public can become informed enough to make referrals, a process which can be achieved through the periodic use of radio, television and newspapers.

A response service to referrals which is perceived as significant and meaningful must be offered. This should include vision screening, counseling for parents, literature on vision stimulation, optical aids and recreation.

Awareness

As in most physical impairments, there are usually observable physical, behavioral and educational symptoms about which teachers and parents need education to prevent costly treatment that may result from delay. For example, in ambliopia ex anopsia, the "lazy eye" syndrome, corrective measures not undertaken before the age of six or seven may cause the child to lose the use of vision in a perfectly healthy eye. Alert classroom teachers can scan the child's medical record and family history for clues to potential visual problems.

The following is an example of a checklist which would assist a classroom teacher in screening:

VISUAL IMPAIRMENT CHECKLIST

Student's Name____________________________________
School____
Teacher______________________Room #___________

Please place an X in front of any symptom that pertains to this child.

Observations

Eyelids:
___crusts on lids among lashes
___red eyelids
___recurring styes or swollen lids

Other symptoms:
___watery eyes or discharges
___lack of coordination in direct gaze of the two eyes

Behavior and Complaints

General:
___rubs eyes frequently
___attempts to brush away blur
___has dizziness, headaches or nausea following close work
___is inattentive in chalkboard, wall-chart or map lessons
___complains of itchy, burning or scratchy eyes

When looking at distant objects:
___holds body tense
___contorts face in attempt to see distant things clearly
___thrusts head forward
___squints eyes excessively

When reading:
___blinks continually
___holds book too far from face
___makes frequent changes in distance at which book is held
___is inattentive during lesson
___stops after brief period
___shuts or covers one eye
___tilts head to one side
___tends to reverse words or syllables
___tends to look cross-eyed
___tends to lose place on page
___confuses the following in reading or spelling:
o's and a's, e's and c's, n's and m's, h's and n's and r's, f's and t's

Identification

A systematic program for vision screening is the first step in identifying school children who potentially require the services of a teacher of the visually impaired. To be effective it should be mandatory at selected grade levels. The National Society for the Prevention of Blindness estimates that one in twenty children has a vision problem significant enough to be referred to an eye specialist. Vision screening procedures, conducted by a qualified person, generally include the following elements:

- Snellen Visual Acuity Charts
  Depending on the space available, the 10-foot or 20-foot chart will be used, or for younger children the "E" chart or letter chart will be used. This test will indicate if a child has a distance vision problem (myopia). Vision is suspect if a two-line variance from the expected line exists from the expectation for a child's age or if there is a two-line variance between the two eyes.

- +2.25 Lenses Test for Hyperopia
  A pair of glasses with +2.25 lenses is placed on the child. The ability to read the 30-foot line on a 20-foot chart would indicate a possible hyperopia. Reading this line with the "corrective lenses" would indicate that he or she probably needs that strength or a similar strength correction.

- Near Point Test
  The 14-inch chart is for near point, that which is used for reading and other close work. An acuity rating would be recorded for this test also. This test will, among other things, indicate if the child has a near vision problem (hyperopia). Most sources recommend using the +2.25 lens test as preferable to the 14-inch card.

- Color Vision Test
  Use of the Ishihara Color Blindness Test, or similar tests, will alert the examiner to a color discrimination deficiency. Inability to distinguish red and/or green and shades thereof are the most common. Since no correction for this condition is available, a modification will be required in color-coded worksheets and workbooks. However this condition presents no serious difficulties and need not be a basis for referral to a program for visually impaired children.

- Color Test for Muscle Imbalance (Tropia or Phoria)
  While the child is looking at an object with both eyes open, a cover is placed over one eye for a count of five and then removed. The eye which was under the cover is observed as the cover is removed. One of the following may occur:
    - The eye may continue to be properly aligned, or
    - The covered eye may have drifted out of line (in or out, up or down) but quickly realigns, or
    - The covered eye may have drifted out of line and stays out of line even after the cover is removed.

This procedure is repeated with each eye. If either of the two latter conditions is noted, a vision problem may be indicated.

- Stereo Fly Test
  The "Fly test" is a test for stereopsis, or visual perception of three-dimensional space. If binocular vision is not functioning as it should, further referral may be indicated.

A light meter should be used to check for adequate lighting in the screening area.

Children who fail to pass critical elements of vision screening procedures are referred to an eye specialist after rechecking. If the visual acuity is not totally correctable or if there is a pathology that indicates poor prognosis, the child may be a candidate for the services of a teacher of visually impaired children.

This teacher will review the information received, paying particular attention to the visual acuity. More information may also be obtained from the classroom teacher's use of the checklist, nurse or the parents. The teacher of the visually impaired will try to contact the eye doctor for additional information, observing the student in class, in the cafeteria and on the playground.

Further information can be found in the following:

Bishop, Virginia E., *Teaching the Visually Limited Child*, Springfield, Illinois: Charles C. Thomas, 1971.

"Before We Are Six," film from National Society for the Prevention of Blindness.

Referral

At any warning signs of potential visual problems, the child should be referred by the classroom teacher to the specially trained teacher for visually impaired children for preliminary vision screening. It is at this point that a distinction is made between a visual acuity problem and a visual perceptual problem. But if there is no teacher of visually impaired, or if the preliminary vision screening continues to suggest a visual problem, the child should be referred to the Department of Health for followup vision screening.

Referral to an eye specialist for a complete eye examination is the next step for children who fail to pass both the preliminary and followup screening. Correction of poor vision or abnormal pathology should enable the child to return to the regular classroom. However, a significant uncorrectable visual loss or a pathology for which the prognosis is poor indicates referral to a diagnostic specialist for staff review and potential placement in a program for visually impaired children.

APPRAISAL

The more formal and informal data gathered, the more precise and effective will be the individual educational plan. Because relatively few tests have been specifically constructed or adapted for the visually impaired population, many make appropriate adaptations of readily available measures. Though the results cannot be strictly compared to existing norms, they are useful guides or indicators.

Throughout the entire appraisal process, parents must be thoroughly involved. Not only is their permission mandatory, but they also have a right to know what is being done and why, and need an interpretation of results. Also, parents are an essential member of the team that formulates the individual educational plan.

Due Process

In order to assure that each visually impaired student's basic rights are protected, careful attention should be given to due process. Such rights are more likely protected if a careful determination is made of each person's needs through an evaluation and a preliminary determination of the available resources to meet those needs. The survey should indicate both the human and material resource needs after a suitable evaluation is made. This should assure full access for the particular resources appropriate in each case.

Both the parents and older children should be apprised of their rights to resources and should participate in the determination of the individualized program. Recommendations should then be made following procedures as specified in the Departmental procedures for implementing Rule 49, revised 1977.

For children found eligible for special education (see Eligibility Criteria, page 457), but for whom placement in public school programs is not available, the educational recommendation should be made to the appropriate contracted agency and, with the approval of the parent, all pertinent educational evaluation information transmitted.

Processing of referrals, completion of educational evaluations and transmittal of educational recommendations should be carried out promptly, usually within three months after the date of referral.

Parents should be informed and participate in the educational planning as required by state and federal statutes. Counseling services to parents should always be provided by members of the diagnostic and special services teams.

Suggested Comprehensive Evaluation

A variety of procedures and instruments are needed with measurement of change over time, through observation and charting behavior, collecting case material, reviewing skill performances, visiting the home. They are perhaps more valuable than highly structured formal assessment techniques.

Substantial information must be gathered from a variety of sources before any decisions can be made about an educational plan.

- Family history should include such information as birthdate, occupation of parents, siblings, additional family members with vision problems, including developmental history of feeding, walking, talking, dressing. Local and national resources for the visually impaired already serving the family should be assessed. All this information can best be gathered by someone trained in home visitations, a social worker, public health nurse, or a teacher of visually impaired children.

- Medical history is important in three primary areas:

  Vision and hearing screening: preliminary check by public health nurse to determine whether or not there are any losses in vision or hearing

  Reports from the eye specialists to indicate the diagnosis, prescription and prognosis for the vision

  General health report to indicate the presence of any additional handicaps

- Psychological reports are the primary factor to be considered as an assessment of potential for learning. Aptitude and interest tests and personality measures, are optional.

- Academic achievement data acquired from teachers' reports, classroom observations and test scores all provide necessary information.

- Educational adaptability to the disability is a major concern of the teacher for visually impaired children, who has a responsibility to assess in three areas:

  Visual efficiency determines the visual functioning which is more important than visual acuity. Barraga's "Visual Efficiency Scale" (available from the American Printing House for the Blind) should be supplemented by observations of the child's functioning in the classroom and on the playground.

  Compensatory skills of the child's attainment ranging from braille and typing to techniques for daily living and social skills are assessed.

  Adjustment to blindness of impaired children should determine the child's understanding of and attitudes toward visual loss, ranging from accepting to tolerant or rejecting.

As has been said earlier, there is nothing inherent in a visual loss which predictably affects the intellectual, social or emotional characteristics. Visually limited children range across the broad spectrum for each variable. However, in a testing situation, there are some specific considerations the educator or psychologist should keep in mind.

- The degree of useful vision needs particular attention. The primary modality for testing may be visual, tactual or auditory or multisensory stimulae to determine how well the child can use his residual vision.

- The time factor on power tests is observed noting that braille, large print or optical aids require, on the average, double the time of the sighted peers.

- Previous testing experiences can affect the performance of experienced visually impaired children. Yet many have been excused from a number of these experiences and are therefore less experienced at taking tests. Furthermore, if a child's previous experience has been in braille exclusively, a test given aurally will result in some processing problems.

- Psychological discomfort results for many visually impaired children in unfamiliar settings. A brief orientation to the room and to the work setting will greatly ease the discomfort.

- Skill perf[illegible] child demonstrates his or her sk[illegible] the examiner needs to provide sufficient time for adequate observation. Furthermore, the examiner needs to be sure that visually impaired children thoroughly understand the manipulations expected of them.

- Restrictive factors of blindness should be kept in mind both for the restrictive base of experiences and the restricted mobility.

- Standardized test norms are usually not available for a visually impaired population. If it is important to find out how a blind child compares with other blind children, then special norms are important. However, since visually impaired persons live in a sighted world, it may be more important to compare the blind child with sighted norms.

This discussion does not advocate shying away from formal testing procedures. However, the results will need to be interpreted as guides or indicators rather than absolutes. For the most part, greater reliance is placed on less formal assessment procedures than on standardized test results.

Scholl and Schnur (1976) have compiled an excellent guide entitled Measures of Psychological, Vocational, and Educational Functioning in the

Blind and Visually Handicapped. The following tests as described in their book are a few of the more widely used with visually impaired children:

Measures of Intellectual Functioning

Binet Adaptations (Irwin-Binet, Hayes-Binet, Interim Hayes-Binet, Perkins-Binet)

These four adaptations of the Stanford-Binet for the visually handicapped are the most important in a series of adaptation efforts. The Interim Hayes-Binet (1942) was perhaps the most widely used, having been constructed for clients without useful vision from a combination of the verbal items of Forms L and M of the Stanford-Binet. More recently, Carl Davis of the Perkins School for the Blind in Watertown, Massachusetts, has been developing an adaptation of recent versions of the Binet to be called the Perkins-Binet (see Davis, 1970; Coveny, 1972) in which performance items as well as verbal items will be available in two forms, one for clients with and one for clients without useful vision. For a detailed history of the adaptation of the Binet scales for the blind, see Davis (1970). (p. 17)

Wechsler Intelligence Scale for Children (WISC--Revised)

The WISC is the most widely known measure of intelligence in children. The verbal subtests need no real modification, although, as Bauman (1973, 1974) suggests, some items may be slightly rephrased when they appear unsuitable for the child. Arithmetic items designed to be read to the child may be presented in braille, if appropriate, or read aloud. As always, interpretation must take into account the child's individual handicap and experience. Arbit (1970) comments on using this test in the evaluation of blind children with brain damage. (p. 27)

Wechsler Preschool and Primary Scale of Intelligence (WPPSI)

This individually administered intelligence test was developed as a downwards extension (age 4.10-6.6) of the WISC. Although many of the items assume visual experience on the part of the child, many items and some subtests are useful with preschoolers. For a discussion of evaluation of preschool visually handicapped children, consult Bauman (1973) and Bullard and Barraga (1971). (p. 29)

Educational Measures

Beery-Buktenica Developmental Test of Visual-Motor Integration

This test is occasionally used with partially sighted clients in investigating visual-motor skills, often in connection with suspected learning disabilities. The test has five levels, ranging from simple motor proficiency to visual-motor integration and includes subtests for tactual-kinesthetic functioning and visual perception. (p. 31)

Bender Visual Motor Gestalt Test (Bender-Gestalt Test)

A test of perceptual functioning in which the client is asked to copy printed designs. This test has been used with partially sighted clients in its published form. In addition, there has been some experimentation with a raised-line tactual adaptation for the blind. (p. 31)

Frostig Developmental Test of Visual Perception
A measure of visual-motor skill providing a perceptual quotient determined from subtests tapping various areas of visual perception. Has been used with partially sighted children aged three to eight. (p. 34)

Scholastic Aptitude Test (SAT)
The Scholastic Aptitude Test, administered by the College Entrance Examination Board (CEEB), is given either in braille or with a reader under special, untimed conditions. This test is required for entrance to many colleges. (p. 37)

School and College Ability Tests (SCAT)
Yields verbal, quantitative and total scores correlating with school performance. Norms are available for blind children in grades four, five and six ([illegible]on, 1963). Braille versions of this test are available through t[illegible]rican Printing House for the Blind. (p. 38)

Stanford Achievement Tests
Much work has been done with these well-known achievement tests, including adapting Forms X and W into braille and large print editions that have seen much use despite the lengthy administration time necessary. Details of administration are given in Morris (1974). (p. 39)

Preschool Measures and Measures of Social Functioning

Vineland Social Maturity Scale

Maxfield-Fjeld Tentative Adaptation of the Vineland Social Maturity Scale

Maxfield-Buchholz Social Maturity Scale for Blind Preschool Children

Overbrook Social Competency Scale

Each of these measures of social competency consists of a behavior checklist of developmentally scaled items as self-help, self-direction, communication, socialization and motor skills. These checklists are normally filled out by an informant familiar with the client, such as a parent, counselor or houseparent. Early items of these measures are largely physical, such as reaching, grasping and rolling over, while later items proceed to the more advanced social behavior expected at later ages. The earliest (1953) of these measures, the Vineland, was standardized on the normal population aged 0-25. The Maxfield-Fjeld, a first adaptation of the Vineland for the visually handicapped, was succeeded in 1958 by the Maxfield-Buchholz scale, which is standardized as a measure of social competency in blind preschoolers aged 0-6. The Overbrook scale is an upward extension of the Maxfield-Buchholz that is still being developed, but is designed to provide norms for a visually impaired population aged six through adult. All of these tests give a general idea of a child's social development, a critical factor for visually impaired children. (p. 44)

Vocationally-Oriented Measures

Kuder Preference Record

Indicates relative interest in a small number of broad areas rather than in specific occupations and has been used extensively in vocational counseling and vocational rehabilitation of the blind. The items are presented in triads, and the client asked to indicate which he likes best and which he likes least. Rusalem (1972) suggests that this test seems to be more useful with young people who do not have a history of working, while Bauman (1971) cautions that the client be instructed to answer items on the basis of preference, not estimated ability. This test may be given orally, in braille or by tape recording. Answers may be given on braille answer sheets. Several clients may be tested together. (p. 52)

Non-Language Learning Test (NLL)

Bauman developed this test as a means of evaluating performance learning potential, making sure that low scores were not the result of lack of vision, as might be the case in performance measures adapted from tests for the sighted. Adapted from the Dearborn Formboard, it consists of a "formboard with four kinds of holes in it, two of each of four shapes. Certain blocks are removed and the remaining blocks so rearranged that the subject must make certain moves in order to get all the blocks back into the board" (Bauman, 1974). Bauman varies administration procedure from client to client, using close observation, and so prefers to regard NLL as a clinical instrument rather than a test in the strict sense. (p. 54)

Objective Personality Measures

Minnesota Multiphasic Personality Inventory (MMPI)

This well-known personality inventory consists of 550 statements requiring responses of "true," "false" or "cannot say" from the client. This measure is criterion referenced, and, because of its clinical origins, is most useful in assessing psychopathology. Scores are obtained on nine basic scales plus a social introversion scale. Special training is needed for interpretation. The MMPI has been used with the blind and a brailled version developed (Cross, 1947). (p. 65)

Projective Personality Measures

Auditory Projective Test

Presents in tape-recorded form scenes that parallel the pictures of the Thematic Apperception Test (TAT). According to Malikan and Freedman (1970), the test has three parts. In the first part the client listens to a scene spoken unemotionally in an artificial language between various role-playing characters, such as an older man and a young man, an older woman and a boy, and a man and a woman. As in other projective tests, the client is asked to develop a story based upon the stimulus presented. In a second section of the test English is used instead of the artificial language. In the third section sound effects are presented, such as a stormy background with footsteps entering a house, a train with a whistle and screeching auto brakes, and running footsteps and gunshots. (p. 67)

Thematic Apperception Test (TAT)
The client interprets a picture by telling a story about it: what is happening, what led up to the situation, and what will be the outcome. Intepretation consists of noting the themes, conflicts, style and other aspects of the stories as they relate to the various pictured stimuli. This is the most widely used of the thematic picture tests, and has been adapted for use by the blind by the examiner's verbally describing the pictures in plain terms and asking the client to make up a story. (p. 73)

Additional Measures

Attitude to Blindness Scale

A 30-item scale developed as part of a larger study to measure the attitude of the blind person towards blindness. (p. 75)

Body Image of Blind Children Screening Test

Developed for use in a study of the body image of blind children. Children are asked to identify planes of the body (back, front) and body parts, and to move parts of the body, discriminate between left and right, and other tasks. Scoring is according to age and accuracy. (p. 75)

Eligibility Criteria

Students identified as visually impaired and found eligible for special education are those who have a visual loss of such nature and severity as to require special education and services.

Educational Planning

Assessment procedures are used to identify a child's strengths and weaknesses. The individual educational plan developed for each child should reflect these strengths and weaknesses. The parent, classroom teacher and special teacher for visually impaired children must cooperate in developing the plan.

The following outlines the specific components of the individual educational plan. The first two sections follow the regular public school curriculum and will not be elaborated. The educational team implementing this plan includes the classroom teacher, special subject teachers, vocational counselor, special teacher of visually impaired children and the parents. The plan should indicate, for each area, who is responsible,

IMPLEMENTATION GUIDELINES FOR THE SEVERELY MULTIPLY HANDICAPPED

CHILDFIND

Identification

Despite their low incidence in the total population, severely multiply handicapped children are often more easily identified than children with milder handicaps. The seriousness of their deficits is generally apparent to the parents, close family associates and the physician prior to school age or soon after a physical trauma. These children are frequently known, at an early age, to the Department fo Health and other community agencies such as the United Cerebral Palsy Association, the Epilepsy Foundation, the Association for Retarded Citizens and the American Federation for the Blind. In addition, severely multiply handicapped children are identified through Operation Search, a childfind activity.

Under the best conditions, a newborn infant who is determined before birth on the basis of genetic history, socioeconomic background and other factors (Yarrow, Rubenstein and Pederson, 1975) to be an extremely high-risk candidate for abnormal development, undergoes a routine Apgar screening* and is referred to a pediatric neurologist for a Brazelton assessment if appropriate. The Brazelton results may suggest referral to an atypical infant program for the prevention of the development of severely multiply handicapping conditions.

The initial screening of a child, whether being newly introduced to the district program or a potential referral from another class, is made prior to the determination of the child's service needs. After appropriate screening, if it is believed that the chid may be in need of an educational evaluation to assess and diagnose his or her educational needs thoroughly, referral should be made either to the school principal or, if the child is not in attendance in school, to the district office.

Referral

Detecting a severely multiply handicapped student in the school presents relatively few problems to teachers and school administrators. However, problems may be encountered when a child who has been placed in a moderately mentally retarded class, for example, or to a class of seriously emotionally disturbed, seems unable to achieve.

Resultant referral from one educational program to a class for the severely multiply handicapped should always be based on diagnosis of the child's service needs. If he or she is found to be primarily in need of basic skill development, referral to the severely multiply handicapped program is appropriate. Referral of a child, e.g., the moderately mentally retarded, to the severely multiply handicapped program because of a severe behavior disorder is inappropriate if the need is primarily academic. The severely multiply handicapped class must not be allowed to become the "dumping ground" for the difficult-to-handle children in other disability program areas. Such referrals both deny the child the service most appropriate and adversely affect the program for those students for whom the service is appropriate.

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*Presently, at major hospitals in Hawaii, all infants undergo an Apgar screening.

Does the child need basic self-help skills such as toilet training, basic motor development programs, basic cognitive or preacademic training, basic communication skills or social skill development? A yes to most of all of the above questions suggests referral to the severely multiply handicapped program. A yes to only one or two of the above probably suggests that the child would be better placed in an academic service program tailored to his or her primary disability, but with aid in specific remedial programs from the staff of the severely multiply handicapped program. Screening must, of course, always follow Department of Education standards for identification, diagnostic and prescriptive services.

APPRAISAL

After obtaining parental permission, a comprehensive educational evaluation will be conducted by district diagnostic personnel. The nature and severity of the child's problems will determine the extent of the evaluation. To evaluate adequately a child who may be eligible for severely multiply handicapped programming, district diagnostic personnel must have access to all pertinent records, the confidentiality of which will be maintained (see Rule 50). Permission must be obtained from the parents to review confidential information maintained by other agencies. Pertinent data such as social case history, medical history, and progress made in programs or services provided by other agencies should be collected.

A preliminary conference may be conducted to determine the necessity, extent and nature of additional evaluations to be undertaken. The determination will be based on the information which should be available to permit precise description of appropriate programs or services for meeting the child's educational needs. This preliminary conference could include, in addition to the district diagnostic personnel, the teaching staff, the physician, Department of Health and other agency representatives.

All or part of a comprehensive evaluation may be conducted by private agencies, but the results will be reviewed by district diagnostic personnel in the same manner as those conducted by public agency personnel.

Comprehensive educational evaluation of a severely multiply handicapped child should take a minimum of two to four weeks and should be a joint endeavor of the teaching staff and diagnostic team. It is important that appropriate specialized ancillary personnel also be involved in the assessment process, including the occupational therapist, physical therapist and speech therapist. Specialized medical personnel should be consulted as well, to address the developmental and physical needs presented by a particular handicap or combination of handicaps. For the severely multiply handicapped student, the focal point of the assessment and prescription team should be the special education classroom teacher.

There are no standardized tests or checklists which will, in a single administration, produce educational objectives and a program plan for a child of this disability group. An intelligence quotient or any other single standardized test score is not an appropriate criterion upon which evaluation will be made.

An analysis of assessment systems for use with severely multiply handicapped children shows that they fall into three positions on a continuum of comprehensiveness (Sailor and Horner, 1976).

Position I: Instruments for screening purposes or for starting programming for a child or class when time is short

Examples: TARC Assessment System
Portage Guide to Early Education

Position II: Instruments to conduct educational assessment and to formulate an individual educational plan

Example: Pennsylvania Training Model

Position III: Instruments which are comprehensive guides to the formulation of instructional objectives

Examples: Balthazar Scales of Adaptive Behavior
AAMD Adaptive Behavior Scales
Behavioral Characteristics Progression

As part of each child's comprehensive evaluation, a determination of available resources for meeting the child's educational needs will be made, including district, state and nonpublic resources, instructional materials, media, specialized equipment and trained personnel.

Comprehensive evaluation of a severely multiply handicapped child should:

- Take a minimum of two to four weeks
- Involve an interdisciplinary team, including parents
- Emphasize measures of adaptive behavior
- Include social case history and judicial history
- Include basic skills assessment

Staffing Conference. After sufficient data are available to assess the child's special needs, a staffing conference will be scheduled. Again, it is important that district diagnostic personnel include other appropriate individuals in the conference.

Recommendations for an educational program will be made at the staffing conference, based on evaluation data and documented information. Such recommendations shall comply with eligibility criteria as specified by Department of Education standards. All final recommendations are to be made following departmental procedures for implementing Department of Education Rule 49.

Eligibility Criteria

To be eligible for placement in a severely multiply handicapped program, a student will:

- Have two or more handicapping conditions
- Manifest severe functional retardation
- Need basic skills development

Educational Planning

On the basis of the educational evaluation and recommendations, an individual educational plan (P.L. 94-142, Sec. 614 (a) (5)) will be formulated for each handicapped student. This plan will be reviewed and, if appropriate, revised at least annually.

Educational planning for the severely multiply handicapped student will provide for the development of precise instructional objectives with teaching and acquisition conditions as well as performance criteria. Appropriate curricula will be specified for each objective in terms of task analyses which are systematically and scientifically monitored through measurement procedures and which are completed or reformulated according to measurement results.

PROGRAMMING

School Placement

Where it is impossible or impractical to establish the severely multiply handicapped student in a full-time self-contained class in a Special education district center, the state special education school or nonpublic school service is recommended. Adherence to the principle of least restrictive environment makes it imperative that students served in segregated facilities be slated for movement into the public school sector as soon as suitable educational services are available. While nonpublic school services frequently offer attractive alternatives for specialized education in lieu of a regular public school program, the

IMPLEMENTATION GUIDELINES FOR THE SPEECH, LANGUAGE AND HEARING IMPAIRED

CHILDFIND

> A language, speech and hearing program in the schools shall have a primary goal to meet the needs of each pupil in developing maximum competence in communication. All goals and objectives shall be written and well defined. Goals and objectives shall be known to the school administrator(s); the professional personnel providing services; other programs or departments within the school system; cooperating agencies outside the school system; parents of pupils with language, speech and hearing needs; and the community at large.
>
> The goals and objectives of school language, speech and hearing programs should be established to meet the varying communication needs and skills of individual pupils, should reflect comprehensive planning, and should provide for the development of a continuum of services including appropriate procedures for early identification, diagnosis, consultation, referral, habilitation, instruction, and evaluation. . .
>
> Standards and Guidelines for Comprehensive Language, Speech and Hearing Programs in the Schools, ASHA, 1973-1974.

In Hawaii, by the fall of 1980, the Department of Education will be providing a network of complex services and programs to all handicapped children and youth ages 3-19. Many of [illegible] will be found to have speech, language and [illegible]

The first level in the continuum consists of students needing the most intensive remediation and programming. These students present the most severe disorders and are deemed incapable of succeeding in a regular classroom situation. These students will be found eligible for special education as speech and language impaired. Their educational program may initially be delivered in a self-contained classroom. Whenever feasible, the student should progress into an integrated self-contained classroom, then the resource service and ultimately into the regular classroom, with supportive itinerant assistance as needed.

A second level in the continuum is the delivery of services that exist for special education students whose primary handicap is not speech and language impairment. A large portion of this population may be found to be in need of speech, language and hearing services. Where this need exists, it must be met. Services in the past for these students in Hawaii have been most inadequate. Under P.L. 94-142 their needs must now be met.

Having given the highest priority to the most severely speech and language impaired students and to those with other handicapping conditions requiring speech, language and hearing services, let us turn our attention to the more traditional caseload of students who require speech/language/hearing therapy but who receive their educational program in a regular classroom.
These students will now be found eligible for special

education as speech impaired. The speech and hearing specialists have always handled this population with considerable success. Although a large number of these students have not been accommodated in the past, all have the same right to receive the direct or indirect services which they require.

The final and least intensive level of serving students will be found in the communication development component. In this component, the speech and hearing specialist will serve as a consultant and/or provide inservice training to teachers, administrators and parents. The students will be aided in further skill maintenance and extension.

In addition to the continuum of services, the speech and hearing specialist plays an important role as a member of the diagnostic team. The speech and hearing specialist will administer the speech/language/hearing evaluation as part of the comprehensive evaluation on any student referred.

Identification Within the School

The identification of students with speech, language and mild-to-moderate hearing problems in schools is best conducted by the speech and hearing specialist and the educational audiologist.

Classroom teachers and administrators also play an important role in the identification process, as they are frequently able to identify a student with possible speech and/or language problems by their performance in language-related activities such as reading and spelling tests, vocabulary tests and other standardized or informal measurements of educational achievement. Students who function two or more years below expected peer levels in educational achievement should be considered for screening for speech, language and hearing handicaps.

In addition, students who are thought to be inattentive, hyperkinetic and distractible may be considered for referral for identification purposes. Such students often reveal auditory processing problems related to difficulties in receptive and expressive language.

Other students who display misarticulation, fluency and/or voice problems should also be identified and referred for further evaluation by the speech and hearing specialist.

Referral

As noted in the Hawaii State Plan (p. 41), "Each district shall provide specially trained personnel to identify all children with suspected handicapping conditions. . ." The State Plan notes that such specially trained personnel in speech and language services shall provide diagnosis as well as assist teachers in educational programming. Also, they provide direct assistance in their area of specialization when needed. The State Plan (p. 47) indicates that referral may be initiated by parents, family physician, public or private agency personnel, teachers, school nurse, other Department of Education personnel or other concerned adults. Referrals to other agencies can also be made by the school districts. A complete listing of agencies providing speech and hearing services is included in this chapter's Resource Supplement. The State Plan notes that screening procedures should normally be undertaken prior to referral for educational evaluation, since the screening is intended to identify rather than to diagnose.

According to the State Plan, the identification and referral process is completed when a request for educational evaluation is made (p. 47-48). It is important to note that the composition of the diagnostic personnel identified in the guidelines (p. 40) provides for a speech and hearing evaluation. Thus, the child to be evaluated is provided with a speech and language evaluation and an audiometric assessment.

APPRAISAL

Due Process

Procedural safeguards to assure that handicapped students and their parents or guardians are provided free appropriate public education include the following:

- An opportunity must be provided for the parents or guardian of the speech and language impaired student to examine all relevant records with respect to the identification, evaluation and educational placement of the student. The parents may also obtain, at their own expense, an independent speech, language or hearing evaluation, if desired.
- The parents must be provided written notice prior to the speech, language and hearing evaluation or placement of the handicapped student. When possible, the prior notice should be provided to the parent or guardian in the parents' or guardian's primary language. The parents must always be provided with an opportunity to raise questions or complaints in regard to any matter relating to identification, evaluation or educational placement.

When a comprehensive evaluation by the diagnostic team is completed, and the primary handicap has been determined to be a speech and/or language handicap, a change in educational status is required. Final recommendations for placement are made following the procedures as specified by the Department of Education in implementing Rule 49.

When a comprehensive speech/language/hearing evaluation by the speech and hearing specialist is completed on students referred for supportive speech/language/hearing services only, a change in educational status is also required. Final recommendations for placement on the speech and hearing specialists' caseload are made following the procedures as specified in Rule 49 for the students requiring supportive speech/language/hearing services only.

When speech, language and hearing services are required as a supportive service to a student whose eligibility is for another special education program (Mentally Retarded, Specific Learning Disability, etc.), due process procedures are related to that total educational program.

Guidelines for Comprehensive Speech and Language Evaluation

The speech and hearing specialist on the diagnostic team will assist in the determination of the nature and severity of the student's problem. Since speech and language handicaps are the most prevalent handicapping condition in both general and special education populations, an evaluation of the student's functioning in these areas should be considered an integral part of any evaluation. The speech and hearing specialist should be the major resource for evaluation of the speech and language parameters of any potentially handicapping condition.

If available, an educational audiologist skilled in pediatric audiology would be especially helpful in identifying mild-to-moderate hearing losses, as well as evaluating amplification needs for the hard-of-hearing student.

The initial evaluation must determine in which speech and language areas significant deviations are evident. It must also determine the relative severity of the speech and language handicap in order that placement in the speech and language impaired class, resource center or itinerant supportive services may be recommended.

A comprehensive speech/language evaluation should consider all of the following areas in addition to auditory acuity and examination of the peripheral speech mechanism. (A list of the most commonly used instruments for screening and evaluation is included in [illegible] to this chapter.)

Speech functions refer to articulation, fluency and voice.

> *Articulatory disorders or deviations* refer to the substitution, omission, distortion or addition of speech sounds.
>
> *Fluency disorders* refer to inappropriate rate or flow of speech characterized by repetitions, prolongations, blocks, hesitations, interjections, broken words, revisions, incomplete phrases or ancillary movements that are indicative of stress or struggle.
>
> *Voice disorders* refer to pitch (ranging from too high to too low), intensity (too weak to too loud), or quality (deviations in timbre).
>
> *Multiple speech disorders* refer to disorders in articulation/language and voice/articulation as associated with cleft palate, cerebral palsy, deaf and hard of hearing.

Language functions refer to oral communication in *reception* (perception, processing, understanding) and/or *expression* (syntax, semantics, morphology, phonology).

Aphasia (Dysphasia) disorders refer to a marked degree of loss of oral language ability (receptive and/or expressive) or a severe auditory language disorder.

Auditory and/or motor perceptual (processing) disorders refer to difficulty in auditory or motor attention, focusing selectively, memory and sequencing.

Criteria for Eligibility as Speech and Language Impaired

On the basis of the findings on the comprehensive evaluation, in which the speech and hearing specialist plays a major role, a student will have met the criteria for eligibilty for special education as speech and language impaired when:

- The major handicapping condition is a severe oral language disorder and/or auditory processing disorder.
- The severe communication disorder interferes with educational performance. (The student is unable to follow classroom directions or perform appropriately.)
- The severe communication disorder adversely affects a student's interpersonal relationships. (The student is unable to relate to others in the classroom.)
- The performance on language or language-related tests shows a lag of two or more years. (The student's performance is unacceptable or unintelligible to peers.)
- The speech/language disorder appears reversible with intensive services.

PROGRAMMING

Educational Placement and Service System for Eligible Speech and Language Impaired Students

As noted in Chapter III of the State Plan, the identification, diagnosis and prescription activities conducted by specially trained personnel (p. 41) should include the services of a speech and hearing specialist. In terms of services, the speech and language impaired student could be considered as a possible participant in a variety of educational settings.

The eligible speech and language impaired student who require special class placement will be served in one of three settings:

- Full-time self-contained class
- Integrated self-contained class
- Resource service

CHILDFIND

Initial identification of children and youth potentially eligible for special education services in Hawaii can be made utilizing three procedures: survey/search, screening and referral. These procedures are designed to locate unserved handicapped children and youth as well as those already in the schools who may require further educational evaluation and/or placement in an appropriate special education program or service.

Awareness

The classroom teacher or supervising administrator should be on the lookout for those children in the school who appear to be particularly puzzling or frustrating. The learning disabled child does not respond to the traditional modes of instruction and discipline in learning to use symbols in reading, writing, spelling or calculating, in spite of the teacher's best efforts. Learning disabled children may appear to invite discipline yet seem not to profit by it. They appear not to learn from experience, but rather repeat the same mistakes over and over.

Referral

The person with the primary responsibility for special education programs and services is the district superintendent, who approves all eligibility decisions and program recommendations.

The district educational specialist for special services has the responsibility for recommending eligibility, as determined by the special services team, to the principal and district superintendent.

The special services team has the responsibility for working up all referrals in order to determine appropriate placement. The team may include a psychological examiner; a school social worker; a speech, hearing and language specialist; a diagnostic-prescriptive teacher and such other personnel as may be considered necessary to handle all referrals.

The first point of contact for parents, teachers, physicians and other professionals is usually the principal of the school which the child is attending. The principal has the responsibility to request the services of the special services team.

APPRAISAL

Due Process

All state education agencies are now required to provide for adequate due process in educational decision making. Due process is to ensure that children who are handicapped or are suspected of being handicapped, their parents, and school personnel are fully informed of their rights and responsibilities relating to procedures in the provision of a free appropriate public education which includes identification, evaluation, program, and placement.

Definition

"Specific learning disability" means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which may manifest itself in an imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations. The term includes such conditions as perceptual handicaps, brain injury, minimal brain dysfunctions, dyslexia, and developmental aphasia. The term does not include children who have learning problems which are primarily the result of visual, hearing or motor handicaps, mental retardation, emotional handicap, or environmental, cultural, or economic disadvantage.

Comprehensive Educational Evaluation

Several ingredients are necessary in planning evaluation procedures including the coordination of several agencies and organizations, provisions for screening and educational evaluation, program information which is available to the public, adequate provisions for diagnostic personnel and provisions for re-evaluations at critical times. Each of these ingredients will be discussed below.

- Coordination of Agencies. While the Department of Education should take primary responsibility for the evaluation and placement of children in special education, other professionals will probably also be involved as appropriate. It will be necessary to have medical examinations, vision and hearing screening, and other medically related evaluations, all done by appropriate agencies and/or private practitioners.

- Public Information. Information about public school programs in learning disability should be disseminated through brochures, television spots, radio announcements, and newspaper advertisements. Included in this service should be information about the other agencies, public or private, that are called upon to perform services.

- Educational Evaluation Procedures. The district special services (Child Study) team is responsible for evaluation and recommendation of eligibility of children for appropriate services, and for providing educationally relevant information regarding the child. The eligibility recommendation is then acted upon by the district educational specialist, school principal and district superintendent.

Members of the special services team include the following personnel:

- Psychological Examiner, who selects, interprets and administers psycho-educational tests; who reports results of all assessments for program planning, administrative, and legal purposes.

- School Social Worker, who obtains information from parents, physicians and community agencies; who assesses social-emotional adjustment of children in the home and community settings; who reports all findings regarding social,developmental and medical histories for program planning, administrative and legal purposes.

- Speech Specialist, who evaluates children in the areas of speech, hearing and language, who reports results of all assessments for program planning, administrative, and legal purposes.

- Diagnostic-Prescriptive Teacher, who evaluates the child's educational progress; who assesses the child's current levels of performance in pre-academic and academic areas, and who reports all findings for program planning, administrative, and legal purposes.

- Others:

  The child's regular teacher; or if the child does not have a regular teacher, a regular classroom teacher qualified to teach a child of his or her age; or for a child of less than school age, an individual qualified by the State Educational Agency to teach a child of his or her age. This person is to provide relevant information regarding the child's level of functioning.

At least one team member must be assigned to observe the child in the educational setting (or in the case of a child of less than school age or out of school, the team member shall observe the child in an environment appropriate for a child of that age).

Follow-up and re-evaluation should be an integral part of the special education process. Re-evaluation emphasis should be based on the recommendations and the child's status reports and/or current IEP submitted by the special education teacher. The re-evaluation should be in all areas related to the disability, including a classroom observation.

Eligibility Criteria

Children suspected of having specific learning disabilities must meet the following three (3) criteria.

Eligibility Criteria No. 1

The child must exhibit a severe discrepancy between the actual and potential achievement levels which is not primarily due to visual, hearing or motor handicaps, mental retardation, emotional handicap or environmental, cultural, or economic disadvantage meets criteria one for specific learning disabilities eligibility.

Eligibility Criteria No. 2

The child must demonstrate a severe discrepancy between actual achievement and potential achievement levels.

1. Potential Achievement

   The following areas should be considered as influential factors in the child's learning ability and should be utilized to determine the child's potential achievement level:

   a. Academic Performance includes evaluation of the present level of functioning in the pre-academic/academic areas

   b. Psychological Test Scores include evaluations predictive of achievement in pre-academic/academic areas

   c. Speech/Language Evaluation includes present level of functioning in both the speech and language areas

   d. School Social Worker Report includes growth and development as well as medical history.

   e. Regular Classroom Teacher Report includes observation of child's present level of functioning in the pre-academic/academic areas as well as social/emotional areas

   f. All other available information (child's teacher's report, agency reports, counselor report, etc.)

2. Actual Achievement

   Each of the following areas is evaluated to determine the actual achievement level of the child.

   a. Oral Expression

   b. Listening Comprehension

   c. Written Expression

   d. Basic Reading Skills

   e. Reading Comprehension

   f. Mathematics Calculation

   g. Mathematics Reasoning

C. Discrepancy

The child must demonstrate a severe discrepancy in one or more of the achievement areas mentioned above. A severe discrepancy for children whose chronological ages range between 5-19 (for children aged 3-4, see the section on learning impaired in The State Plan for Education of Preschool Handicapped Children, July, 1980) is as follows:

severe discrepancy between actual and potential achievement	chronological age
1 year	5
1½ years	6-7
2 "	8-10
2½ "	11-13
3 "	14-16
3½ "	17-19

Eligibility Criteria No. 3

The child must exhibit one or more deficits in all of the following three (3) major areas (attention, perceptual/motor, and language) diagnosed through an age appropriate test or professional observation.

1. Attention

   a. Hyperactive - the inability to control motor movement to attend to a task in a one-to-one situation

   b. Hypoactive - the lack of or extreme slowness to respond motorically appropriate to tasks

   c. Short attention span - the inability to attend to a task for the length of time commensurate with child's age mates

   d. Distractible - the inability to focus on task due to attention to visual and auditory distractions

   e. Perseveration - the inability to change from task to task, often repeating same behavior

   f. Impulsive - the inability to attend to task because of a lack of behavioral control, frequently moves randomly about without purpose

2. Perceptual/Motor

   a. Visual

      1. Visual Form Constancy - the ability to perceive shapes, size of objects in one's own environment

      2. Visual Position in Space - the ability to perceive objects in relationship to the observer

      3. Visual Figure Ground - the ability to perceive objects in foreground and background and to separate them meaningfully

      4. Visual Memory - the ability to recall visually presented objects

   b. Auditory

      1. Auditory Figure Ground - ability to focus on essential auditory stimuli and block out interfering auditory stimuli

      2. Auditory Discrimination - ability to discriminate sounds, letters, words

      3. Auditory-Vocal Association - ability to respond verbally in a meaningful way to auditory stimuli

      4. Auditory Memory - ability to recall auditorily presented information

      5. Auditory Sequencing - ability to reproduce auditory patterns in the appropriate sequence of presentation

   c. Motor

      1. Auditory Motor Integration - the ability to coordinate auditory stimuli with movements of the body or with movements of a part or parts of the body

      2. Visual Motor Integration - the ability to coordinate vision with movements of the body or with movements of a part or parts of the body

      3. Fine Motor Coordination - the ability to control the fine muscles for writing, cutting and other skills requiring small muscle control

      4. Laterality - the ability to integrate one's sensory-motor contact with the environment through the establishment of hand, eye, foot dominance

3. Language

   Language is operationally defined as a communication system involving receptive, integrative and expressive processes.

a. Receptive Processes: include the child's ability to receive information through the auditory, visual and haptic systems and understand these perceptions

b. Integrative Processes: include the child's ability to internally manipulate the symbols of language through association, integration and classification

c. Expressive Processes: include the child's ability to express his ideas either verbally or motorically. This involves selecting appropriate responses, proper sequencing of the components of expression and choosing an effective mode for communication

Written Report

1. The team shall prepare a written report of the results of the evaluation.

2. The report must include a statement of:

   a. Whether the child has a specific learning disability;

   b. The basis for making the determination;

   c. The relevant behavior noted during the observation of the child;

   d. The relationship of that behavior to the child's academic functioning;

   e. The educationally relevant medical findings, if any;

   f. Whether there is a severe discrepancy between achievement and ability which is not correctable without special education and related services; and

   g. The determination of the team concerning the effects of environmental, cultural, or economic disadvantage.

3. Each team member shall certify in writing whether the report reflects his or her conclusion. If it does not reflect his or her conclusion, the team member must submit a separate statement presenting his or her conclusions.

Educational Planning

Educational planning for the child with learning disability should be characterized by the following objectives:

- An evaluation of the present functioning of children should be made. While the special services team will provide the appropriate array of identification tests and will assure provision for appropriate medical evaluation, the special teacher should be prepared to give some educational tests which consist of achievement tests

Addendum to "Programs and Services for the Orthopedically Handicapped and Other Health Impaired" Section of "Program Standards and Guidelines for Special Education and Special Services in Hawaii"

Identification of Health Impairment Due to Autism

Historically, autism has been considered to be a psychosis usually closely identified with childhood schizophrenia. In recent years, however, research has suggested that autism is far more similar to retardation than to emotional disturbance. Still, there is a number of salient characteristics of the autistic which obviously exclude them from being considered retarded. Continuing research lends support to the notion that autism is most clearly a severe functional disorder with a physiological etiology rather than an emotional disorder brought about by interpersonal conflicts, or other environmental factors.

The American Psychiatric Association (1980) has classified Infantile Autism as a "Pervasive Developmental Disorder" in the Diagnostic and Statistical Manual of Mental Disorders, 3rd edition (DSM III). This disturbance is "characterized by distortions in the development of multiple basic psychological functions that are involved in the development of social skills and language" as opposed to a "Specific Developmental Disorder" which is a delay in development. As a developmental distortion, the abnormal behaviors displayed would not be normal for any stage of development (page 86). The following criteria are presented for this medical diagnosis:

A. Onset before 30 months of age.
B. Pervasive lack of responsiveness to other people.
C. Gross deficits in language development.
D. If speech is present, peculiar speech patterns such as immediate and delayed echolalia, metaphorical language, pronominal reversal.
E. Bizarre responses to various aspects of the environment, e.g., resistance to change, peculiar interest in or attachments to animate or inanimate objects.
F. Absence of delusions, hallucinations, loosening of associations and incoherence as in Schizophrenia (pages 89-90).

"Childhood Onset Pervasive Developmental Disorder" is the diagnosis assigned to those who present the behavioral features B through F between 30 months and 12 years of age. This population is also considered "Health Impaired due to Autism". Therefore, the age of onset is not a criterion in the determination of special education eligibility for this condition.

Warren (1980) concludes that autistic students have a unique learning style which is "the result of cognitive deficits, primarily involving sensorimotor integration, and...the following characteristics:"

1. Seriously impaired short-term memory;
2. A tendency to prefer visual over auditory stimuli;
3. A tendency to learn more quickly when manipulative cues are used;

4. Difficulty in responding to more than one cue at a time;
5. A tendency to persist in a successfully learned response when a different instruction is given (perseveration);
6. A tendency to respond to stimuli not observed by others, which often results in problematic behavior; and
7. Stereotypic self-stimulation which impairs attention spans.

Warren explains further that "these children learn much more slowly than children who are mentally retarded, who have other handicaps, and who are normal, although a tendency towards selective attention can result in occasional feats of learning far out of proportion to the overall profile of autistic students" (pages 307-308).

Once the various definitions and behavioral characteristics of autism are considered, it becomes apparent that this condition is neither emotional disorder, mental retardation, nor specific learning disability. What can be said about the condition, given the findings of recent research, is that autism presents a certain impairment to a child's health. Although autistic children are generally blessed with robust physical health and a normal life span, their interactions with the environment are grossly impaired by various physiological abnormalities in their central nervous systems.

Eligibility Criteria for Health Impairment Due to Autism

A. Clinical diagnosis of "Autism" or "Pervasive Developmental Disorder" based upon clinical observation, interview, and evaluation by a state-certified clinical psychologist or licensed physician.

B. Statement by clinical psychologist or licensed physician that there is an absence of delusions, hallucinations, loosening of associations, and incoherence as in Schizophrenia.

C. Evidence that characteristics from three or more of the following behavioral clusters are chronic, i.e., the behavior has persisted for approximately one year:

  1) Failure to develop normal attachments; indifference or aversion to affection or physical contact; failure to develop cooperative play and friendships; extreme aloofness; often appears to be deaf;

  2) Extreme mood lability; catastrophic reactions to minor changes in the environment; unexplained rage reactions or panic attacks;

  3) Ritualistic behaviors, e.g., hand flapping, repetitive peculiar hand or finger movements; insistence upon a fixed sequence of events; extreme preoccupation with odd objects; excessive clinging to one person; obsessive fascination with repetitive movements, especially those of spinning objects; stereotyped rocking or other rhythmic body movements;

4) Hypersensitivity or hyposensitivity to sensory stimuli, such as light pain, sound, or touch; self-mutilation, e.g., biting or hitting self, head-banging; lack of fear of real dangers;

5) Morbid preoccupations; bizarre ideas, strange fantasies; pica, i.e., the craving to consume non-foods.

D. Absent language or evidence that five or more of the following communication disorders are present;

1) Immature grammatical structure;

2) History or presence of delayed or immediate echolalia;

3) Pronominal reversals, e.g., use of "him" instead of "me";

4) Nominal aphasia, i.e., inability to name common objects;

5) Inability to use abstract terms;

6) Metaphorical language, e.g., the use of a key word to represent a whole experience that a child would like to repeat;

7) Abnormal speech melody;

8) Inappropriate nonverbal communication, e.g., gestures, facial expressions.

Programming

It is strongly recommended that IEP conference participants work together closely so that efforts to stem various learning problems can be coordinated between home and school. There may be a variety of service delivery options for the autistic student; the possibility of a mainstreaming experience in a regular class should not be ruled out.

The need for careful observation of the autistic child in natural environments, rather than in artificial testing situations, is emphasized. Educationally relevant assessment data is crucial to the development of an effective IEP. IEP revisions may be required more frequently with autistic children than with other handicapped populations and a willingness to revise a program accordingly is essential to appropriate programming.

Donnellan (1980) presents some convincing evidence based upon recently available research on the education of the autistic which strongly suggests the efficacy of certain teaching strategies for this population:

1. Students with autism can learn many skills (Lovaas, 1977);
2. Students with autism can be taught to perform in response to cues from a wide variety of persons (Koegel, Russo, and Rincover, 1977):

CHILDFIND

Awareness

Most referrals for individual assessment are made by classroom teachers. The referrals are frequently based upon teacher observation of learning behavior or as a result of group tests of mental ability. Referrals for individual assessment usually follow attempts by the teacher to teach the child--particularly the mildly retarded child--to read. Teacher referrals often indicate that the child has difficulty retaining information from one day to the next, maintaining attention, or understanding concepts such as same and different. Also frequently mentioned in referrals are the child's immature behavior (e.g., playing with younger children during recess), a limited vocabulary and/or an overall appearance of dullness.

Moderately and severely retarded youngsters are usually identified prior to school age. Down's Syndrome children are usually identified by the attending obstetrician at brith. Between birth and age two, other retarded children arouse their family's concern because of their obvious developmental lags. Most of these children are identified by professional clinics, with the referral being made by the family's physician.

Identification

Tentative identification can be made when the above behaviors continue in the absence of any problem in visual or auditory acuity. An initial step towards identification, therefore, should be to determine that the child's academic difficulty is not due to poor vision or poor hearing. (See pages 45 and 448 for a description of hearing and vision screening procedures, respectively.)

A process frequently employed by teachers is to compare the child's cognitive skills to normal expectations for his or her chronological age. For example, by age six or seven the average, normal child:

- Can count to 39
- Has number concepts to 19
- Can read numerals to 39
- Can describe action in a picture
- Can tell how common objects are different from one another
- Can repeat four digits in a series

Comparing the child to these and similar age-related expectations can lead to identification.

Other common procedures include having the supervising administrator collect a sample of the child's language and observe the child's behavior in relation to the teacher's instruction, paying particular attention to problems in attention, memory and the understanding of simple concepts.

Referral

In the Department Procedures Superintendent 74-40, Department Procedures for Implementing Rule 49, Relating to Changing the Educational Status of Exceptional Students, revised 1977, explicit procedures are described for making referrals. The procedures identify the responsibilities of the administration, the school principal, the classroom teacher and diagnostic personnel. For the benefit of the child in question, the referral procedures should be followed strictly.

APPRAISAL

Due Process

Due process procedures have come about to protect the rights of children and their parents in all matters pertaining to the children's identification, evaluation and educational placement. Due process procedures are not intended to reduce the professional responsibility or authority of educators. Rather, adherence to due process will produce benefits such as better parent-school communication and individually designed education programs for children. (See Rule 49, revised 1977, for due process procedures.)

Suggested Comprehensive Evaluation

The assessment of intellectual ability and adaptive behavior are essential ingredients in determining the presence of mental retardation. As previously noted, intelligence test scores cannot be used as the only or primary criteria for evaluation. Instead, poor performance on an IQ test must also be reflected by deficits in adaptive behavior. (See the Illustrations of Adaptive Behavior by Age chart and the Classification of Mental Retardation by IQ Ranges in this chapter's Resource Supplement.) To assist in differentiating levels of mental retardation, the intelligence scores and measures of adaptive behavior are classified into mild, moderate, severe and profound. Again, it is essential to determine that the poor performance(s) are not due to poor visual or auditory acuity.

Equally important for comprehensive evaluation purposes is the assessment of language development. The language and speech development of mentally retarded children is often delayed, with serious deviations from the normal easily identified by noting children with poor articulation, inadequate vocabulary, poor symbolic concepts and/or weak syntactic structure. The assessment of language and speech can be conveniently translated to educational programming. It is also important to recognize that individuals differ in their ability to receive, associate and express information from various sources. Comprehensive evaluation procedures should include assessments of the efficiency of information-processing skills such as provided by the Illinois Test of Psycholinguistic Abilities (ITPA).

The assessment of perceptual-motor skills is also an important area for evaluation. A child's perceptual development is considered a result of an organized interaction between motor and sensory systems.

Medical examinations, particularly for moderately and severely retarded children, are essential for the identification of health-related conditions (e.g., epilepsy, cerebral palsy, visual abnormalities such as strabismus and nystagmus) that have implications for educational planning.

When a child is being referred from the regular class, the comprehensive evaluation should include past and current academic performance and direct observation of the child's behavior. Poor performance in school can often be related to inappropriate classroom behavior. Comparison with expected levels of academic performance can be of assistance in determining the degree of difficulty the child is experiencing.

Eligibility Criteria

Students identified as mentally retarded and eligible for special education must indicate significant deficits in measured intelligence (significantly subaverage general intellectual functioning) as well as concurrent deficits in adaptive behavior.

Educational Planning

To formulate an individualized education program (IEP) plan, the comprehensive evaluation results should be transformed into an operational format that provides the teacher with a quick but comprehensive listing of what the child can already do, what the child needs to learn, and the process(es) by which the child learns best.

Using a simple evaluation code, the teacher can easily identify what skills the child has learned and what skills need to be taught. By having all the class members listed in a similar fashion, the teacher can also identify children who need similar or related skills and what children need individual skill development.

Converting the skills to be taught to a behavioral objective, the teacher can further individualize the educational plan and incorporate the processes by which the child learns best. A behavioral objective usually contains three elements: conditions, performance and extent. The conditions specify the situation, the material to be used and whether some steps have already been completed or not. The materials can be concrete, abstract, visual, tactile, auditory, written or spoken. The steps can be all uncompleted, completed except one, or any degree in between. The situation can be anything specified by the teacher. The performance specifies what the child will do with the materials given. The extent specifies how well the task should be performed, thereby permitting acceptance of a wide range of performances that match the individual abilities of the students.

By focusing on the three elements of a behavioral objective, the teacher can formulate a variety of ways in which skills can be learned or demonstrated, can be made easy or hard, concrete or abstract, visual or auditory. The educational plan should also specify a date by which the objective should be accomplished. The date should not be longer than six months from its initiation by the instructor. By setting a date the teacher structures his or her time so as to evaluate the progress of the student and determines the success of the efforts. In this way, curriculum objectives can be changed, modified or continued. Also, the teacher gets a sense of the child's rate of learning and can make adjustments for the number and difficulty of new skills to be taught.

An example of a continuum of skills is illustrated in the Resource Supplement to this chapter.

PROGRAMMING

Matching Resources to Prescriptions. Successful matching of an individual student with curriculum and other resource materials requires a clear understanding of the student and the resources. The needs of the student are established first; then appropriate materials are acquired and utilized. When curriculum adjustments are required, the materials are adapted to the student, not the reverse. (A partial list of resources, including instructional materials, programs and organizations are presented in this chapter's Resource Supplement.)

In designing an individual education program plan, resource materials can be adjusted to match the input-output ability of the student. If materials require reading directions, the directions can be recorded in cassette tapes for the student to listen to. Similar adjustment can be made for output responses. In any given case, the teacher needs to know clearly what the student can and cannot do in order to match the child to resource materials.

Educational Placement

For mildly retarded students, the educational placement should provide as much interaction with regular classroom peers as is appropriate to meet individual learner needs, with the major goal being education in the least restrictive environment.

Beginning at the elementary level when mildly retarded individuals are usually identified, the special education services to be considered first should be of a resource service nature. The resource service model will permit the greatest amount of integration, while still providing

IMPLEMENTATION GUIDELINES FOR THE ORTHOPEDICALLY HANDICAPPED AND OTHER HEALTH IMPAIRED

CHILDFIND

Awareness

Many children who have orthopedic disorders or other health impairments will be identified in the years prior to school attendance. There are, however, a number of disabling conditions which can have their onset after the child is of school age. An alert instructional staff plays a crucial role in the identification of students with physical or behavioral differences which may be the result of a health disorder. In some instances, the early identification of disorders can help prevent a permanently disabling condition. Teacher awareness of the characteristics of other disorders (e.g., Legg Perthes, rheumatic fever) may assist medical personnel in the early identification of students with health problems such as some forms of epilepsy and diabetes.

Although only a physician can diagnose orthopedic or other health disorders, there are a number of danger signals which should alert the instructional staff to the possible need for referral to medical personnel. The American Heart Association lists the following danger signals which may indicate a streptococcal infection sometimes leading to rheumatic fever:

- A sore throat coming on suddenly

- Throat hurts when swallowing

- Pain caused by gentle pressure under the angle of the jaw and the glands in the neck are swollen

- Feverish (a temperature of 101 degrees to 104 degrees is usually indicative of a strep infection)

- Complains of headache or nausea

- Has been in contact with children with scarlet fever or sore throats. (Adapted from A Guide for Teachers, 1971, page 2.)

The child who develops a persistent limp or who complains of pain at the hip or knee may be in the early stages of Legg Perthes or Osgood-Schlatter's Disease. Children who appear to stare vacantly into space for brief periods or who have a lapse of motor control--such as during the writing of a word—may need referral to ascertain if the "daydreaming" is actually petit mal epilepsy.

Some symptoms of diabetes are fatigue, weight loss in spite of a good appetite, increased thirst, frequent urination and skin infections. A child exhibiting such behaviors should be referred for medical examination. Teachers should also be kept closely informed about the medication taken by students. Knowledge of the types of anticipated reactions to medical prescriptions assists the teachers in their determination of appropriate activities and progress for each student. The teacher who is aware of medical treatments may also be one of the first persons to note behaviors which might indicate the need for a medical re-evaluation or to note that the student is not taking prescribed medicines.

The contribution of instructional staff to early detection of illnesses or disorders and their monitoring of day-to-day student responses to drug treatments are among the many important functions such faculty perform in addition to the process of teaching.

Identification

Authorization for the classification of students as orthopedically handicapped or other health impaired rests with the district superintendent. This authorization is based on data supplied by the diagnostic personnel team. Basic to the data gathered by the team is, of course, the medical report which is necessary before consideration for such categorization. It is also important to bring to the attention of the medical personnel those children who may not have yet been examined. An instructional staff alert to the possible symptoms of orthopedic handicaps or health-endangering diseases assists greatly in this process.

When the medically relevant information is supplied from other than educational personnel, Form OIS-042-74, Non-Department of Education Request for a "Change in Educational Status," should be completed. After medical certification information is supplied to Department of Education personnel for use in referral, Form 29 or District Referral Form, Department of Education Student Referral Form, should be completed with a copy of the medical report attached to the form.

The diagnostic personnel team, upon receipt of referral forms and the medical report, will gather other relevant data including observations of the student in the existing classroom situation and information from instructional personnel, a review of the academic status and, where appropriate, data from social agencies. If the child is not in school, diagnostic assessment processes should be initiated early. A preliminary conference should be conducted involving medical, educational and possibly social service agency personnel and parents to determine the extent of the need for further evaluation processes. When the classification of the child is clearly determined, the diagnostic personnel team should proceed to assist instructional personnel in the development of an appropriate individualized educational plan for the student.

In order to assure early identification of orthopedically handicapped or other health impaired who are of prior-to-school age or to find children ages 6-21 who have not previously participated in a formal educational program, a full community effort needs to be designed and implemented. Recent federal legislative action assuring the rights of all children to an appropriate education supports the need for such a program. A variety of methodologies have been designed to find children and youth not previously served by public educational facilities. A report of 26 state childfind programs is summarized in Childfind (Proceedings of a Conference, 1975).

Referral

Requests for assessment may be made by any community agency representative, school personnel, medical personnel or parent. Referral is made to the district personnel identified to conduct the identification, diagnostic and prescription process. Parental permission must be obtained in this process and due process rights are to be explained. The priority level of the referral is determined by district personnel.

The format for implementing the referral process is identified in Department Procedures Superintendent 74-40, Department Procedures for Implementing Rule 49, Relating to Changing the Educational Status of Exceptional Students, TAC 74-7816, May 1974.

APPRAISAL

Due Process

The individual rights of exceptional children and youth are assured through the course of legal proceedings established by the State of Hawaii and the Federal Government of the United States. These include, but are not limited to, provisions for the right to an appropriate education, confidentiality of information about the student, inclusion of parents or guardians in the educational process and the right to a hearing if it is felt the rights of the exceptional student are not being met.

The importance of due process in the educational provisions for the orthopedically handicapped and other health impaired cannot be minimized. The wide variety of treatment process, educational placements possible for consideration, medical implications of school attendance, home or hospital instruction and the right to have an educational program suited to the needs of these children and youth each are included in the establishment of the due process system.

Suggested Comprehensive Evaluation

Assessment of the majority of orthopedically handicapped and other health impaired students should be the same as that carried out for all other students, provided it is carried out by persons qualified to test orthopedically handicapped and other health impaired students. The use of the individualized intelligence tests, achievement tests and observation reports, are appropriate for those students who have adequate verbal ability and unimpaired manipulatory skills. Part of this population, however, will require an assessment process which can function around inadequate verbal responses or lack of ability to manipulate test materials. It is sometimes possible for the psychologist or psychometrist to alter the method of administration of the desired tests. But where timed-response sequences or manipulation of test items are significant to the assessment process, this may not be possible. Some substitute tests or segments of tests may be used to determine student abilities or, as is often necessary, it may be most appropriate to place the child in a self-contained classroom for the orthopedically handicapped and other health impaired for an assessment over time through careful evaluation by the diagnostic team and the teacher. In so doing, it is necessary to obtain approval of parents or guardian as required by Public Law 94-142, which specifies approval prior to placement. In such cases the prior certification process by medical disability will also precede placement. As stated in the State Plan, placement will be reviewed within two months and the teacher has the responsibility for an annual review.

A listing of assessment materials follows which may serve as a resource for those responsible for the determination of the assessment process. This is not an all-inclusive list, but rather a description of some assessment instruments and materials which lend themselves to the process as needed for this population of students. When it is possible to do so, the Wechsler Intelligence Scale for Children or the Stanford-Binet Intelligence Scale should serve as one of the assessment instruments. Also, observation of the behaviors of the child is important to include in every assessment package. The components of comprehensive educational evaluation included in the State Plan and Public Law 94-142 both call for a multifaceted approach to the assessment process. This need is especially apparent in the determination of eligibility of those orthopedically handicapped or other health impaired who are unable to demonstrate their knowledge or competence through the usual channels of speech or manipulation of objects. The materials referenced here are for consideration as parts of a total package of assessment.

The Basic Concept Inventory. Siegfried Englemon, Chicago: Follett Publishing Company, 1967.
This test is designed to evaluate the knowledge of a child in certain academically related concepts. Designed for the young disadvantaged, emotionally disturbed or slow-learning child, but also appropriate for orthopedically handicapped and other health impaired, this individualized test helps to assess whether or not the child can use concepts such as plurals, over/under, and full or partial statement ideas. Other useful data can also be obtained. Teacher- or trained examiner-administered, data from this test assist in determining an appropriate placement. Test time: approximately twenty minutes.

Developmental Potential of Preschool Children: An Evaluation of Intellectual, Sensory and Emotional Functioning. Else Haussermann, New York: Grune and Stratton, Inc., 1958.
Developed to determine the functioning level of a child, it is one test to assist in the evaluation of the adaptive capacity of the child.

Nonverbal students or students without the ability to manipulate test objects are included among those for whom this instrument might prove useful. Using common objects such as a cup, comb and some card materials the test yields an estimate of the upper level of the student's ability. Data on developmental history as well as pre- and posttest observations of behavior are included. The test should be administered by one thoroughly familiar with all aspects of the test.

"Motor and Cognitive Development in Early Education," Behavior of Exceptional Children: An Introduction to Special Education. N. Haring (ed.), Columbus, Ohio: Merrill, 1974.
This is not a test but a scale of achievements a child from the prior-to-school years through early elementary school age might be expected to demonstrate. This material can serve the diagnostic team with a measure to compare the abilities of the child which help to determine appropriate placement. It is not recommended instead of more formal testing, but as supplementary material to the testing process.

"Task Level Evaluation," Appendix A, Cerebral Palsied and Learning Disabled Children. N. Marks, Springfield, Illinois: Charles C. Thomas, 1974.
This is not a test, but a suggested listing of tasks which a child might be expected to demonstrate from ages one through nine years. This resource could serve as a helpful guide in appraising how the student compares with other students in the performance of motor, language and self-care skills. Informal use is recommended. Material included as school-age children task expectations could also be useful in developing curriculum or in developing individualized educational plans for students.

Columbia Mental Maturity Scale. B. B. Burgemeister, L. H. Blum and I. Lorge. New York: World Book Company, 1959.
Untimed test allows for alteration of test administration for orthopedically handicapped students. This 100-item test yields a mental age score. Constructed for ages three to twelve years and generally administered in twenty to thirty minutes, this is recommended for use with a Peabody Picture Vocabulary Test if a Wechsler or Stanford-Binet are not obtainable. This test could also be used to obtain an additional assessment along with a Wechsler or Stanford-Binet.

Peabody Picture Vocabulary Test. Lloyd Dunn, Minneapolis, Minnesota: American Guidance Service, Inc., 1959.
This individually administered test is a well-standardized estimate of the student's verbal knowledge. It can be used for all school-age students. Results yield an estimate of mental age, standard IQ scores and percentiles. Designed for use with handicapped (including cerebral palsied) children, the test is easy to administer even to children who are unable to make a verbal response. No special training is required of the test administrator other than thorough knowledge of the components of the test. It is inexpensive and appropriate for all levels of intellectual functioning.

Vineland Social Maturity Scale. Edgar Doll, Circle Pines, Minnesota: American Guidance Service, 1965.
This is a scale of social competence expectations. The data obtained

from this assessment could be useful to the teacher in designing a curriculum or an individualized educational plan. Information obtained for this scale which comes from a person who is very familiar with the young child's performance on social competence tasks should be supplemental to direct observation.

Eligibility Criteria

Students identified as orthopedically handicapped or health impaired and found eligible for special education are those who have crippling conditions or chronic health problems of such nature and severity as to require special education and services.

Educational Planning

Homebound and Hospitalized. Teachers of the homebound and hospitalized, in cooperation with the regular classroom teachers, design a curriculum for the student which is based on the parent school's curricular content. When the student has had no previously assigned classroom, the teachers of the homebound and hospitalized will develop the curriculum at the appropriate grade level in cooperation with personnel designated by the school principal for the school which the student would ordinarily attend. Components of the individualized educational plan include statements of the factors listed here:

- Present level of educational/academic performance
- Short-term objectives
- Long-term objectives
- Description of educational program to be provided including any additional services scheduled for the student
- Physician's recommendations for instructional restrictions or demands (where appropriate)
- Data on anticipated initiation date and anticipated duration of such a program
- Criteria for evaluation including a time schedule for review of progress (at least once annually)

School Attendance Programs. The teacher assigned with the responsibility of the curricular program for the student designs a curriculum which is based on information from the assessment process, the teacher's observations of the student and a review of the student's records. The content of the individualized educational plan should reflect the parent school's regular curricular expectations with modifications made according to the capabilities of the student. Of necessity, an analysis of the grade level curriculum content may need to be made to enable the

IMPLEMENTATION GUIDELINES FOR THE HEARING IMPAIRED

The following implementation guidelines are designed to describe the educational programs and services which should be available to hearing impaired children and youth in Hawaii. Not all aspects have been implemented. These statements, then, are designed to give guidance to the State, districts and schools as new programs are initiated and implemented.

CHILDFIND

Awareness

The critical language and communication problems caused by an early and severe hearing impairment make it essential that hearing impaired children be identified, assessed and provided appropriate educational services at as early an age as is possible.

Several factors point to the need for early identification and habilitation for infants with auditory disorders. If a hearing impaired infant is to develop maximum capacity for perception of sound and language development, hearing aids must be placed, and training in language must be provided by parents and educators during the very early periods of the infant's growth and development. During this time the infant has optimum ability to learn certain auditory and visual perceptual skills.

In addition, the basis for language and speech skills develops in children who hear during the first year of life. When fitted with amplification early and given opportunities for language development, infants with hearing impairment can more closely parallel these normal developmental patterns in language and speech.

Finally, important parent-child relationships are established very early in life. Professional help, as needed, must be available for parents to develop an awareness of and skills in the use of special techniques in communicating with their hearing impaired child.

Identification

Operation Search. An annual awareness and search campaign for handicapped children and youth is conducted by the Department of Education in cooperation with the Department of Health.

Hearing and Vision Screening. Hearing and vision screening of school-age children is conducted by Department of Health personnel. For children so screened and suspected of being in need of special education, Department of Health shall make a referral to Department of Education.

Referrals from Other Agencies. The Department of Health and other agencies refer hearing impaired children and youth to the Department of Education for educational evaluation and appropriate educational programming.

School Level Screening. During school level screening by regular or other special education classroom teachers, students who are suspected of having a hearing impairment may be identified. A child's involvement in one or more of the following behaviors may indicate the presence of a hearing impairment:

- The child performs very differently with verbal tests and activities than nonverbal ones.
- The child is inattentive during classroom activities and has difficultyfollowing directions.
- The child does not respond to direct commands.
- The child seems unaware or unsure of class direction and activities.
- The child responds only when looking directly at the teacher or administrator.
- The child avoids or performs poorly in verbal or written classroom activities.
- The child has speech articulation problems especially with the soft consonants such as s, sh, ch, z and t.
- The child's comunication skills are below what would be expected for the age or grade level.
- The child's written language indicates omissions, transpositions, additions of words, confused syntax, little knowledge of sentence patterns and limited vocabulary.
- The child seems withdrawn socially and has little interaction with his or her peers.
- The child's balance is poor.
- The child seems to be unable to determine the direction of a sound source.
- The child has a medical history of middle ear infections or has a discharge from the ear.
- The child has siblings, parents or other relatives known to have a hearing impairment.
- The child has other handicapping conditions.

- The child's medical history indicates prematurity, meningitis, Rh incompatibility in parents, maternal rubella or any of the other maladies known to cause hearing impairments.

- The child performs poorly in activities involving auditory perception, discrimination or acuity.

Referral

Request for Educational Evaluation. After appropriate screening has been conducted, and/or if it is believed that the child may be in need of an educational evaluation to thoroughly assess and diagnose his or her educational needs, referral is made to the school principal or, if the child is not in attendance in school, to the district office. Upon review of pertinent information, the school principal decides if an educational evaluation will be requested and notifies the student's parents as to the decision. Parental consent shall be obtained for the educational evaluation. Such request for an educational evaluation is made to the district office. For children not in attendance in school, the district office makes the decision pertaining to an educational evaluation and obtains consent from the child's parents.

Referral for educational evaluation is made in accordance with due process procedures and, when applicable, utilizes forms as specified in DOE Rule 49, revised 1977.

APPRAISAL

The Illinois Commission on Children states:

> "Hearing impairment is not an entity—it is a functional disorder. As such, it affects the total person and not just his hearing. Once the identify of an individual with an impairment has been ascertained, he may require otologic, audiological, psychological, educational and other scrutiny so that a comprehensive description of his total problem may be derived, a diagnosis made, and a sequence of management prescribed."[8]

District Diagnostic/Prescriptive Center for the Hearing Impaired. The educational evaluation of hearing impaired children and youth requires specially trained personnel and highly sensitive equipment. Since these are not readily available in each of the seven districts, there is a need for a centrally located diagnostic center for the hearing impaired. Such a center located at Hawaii School for the Deaf and the Blind would provide a center for educational evaluation, classes for trial placement either at the school or in a program for the hearing impaired in a nearby regular school, and residential facilities for neighbor island children and their parents during the diagnostic work-up.

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[8] Illinois Commission on Children, A Comprehensive Plan for Hearing Impaired Children in Illinois, 1968.

Such a center would provide on a full- or part-time basis the services of the following personnel trained in working with the hearing impaired:

- Psychologist
- Psychological Examiner
- Educational Audiologist
- Speech/Language/Hearing Specialist
- Diagnostic-Prescriptive Teacher
- School Social Worker

In addition to providing a comprehensive diagnosis, these personnel would be available to provide specialized assistance throughout the state to all teachers of the hearing impaired, hearing impaired students and parents.

Of special importance would be the assistance provided by these specialized personnel in recommending appropriate programming, method of instruction and support service necessary for the hearing impaired.

The "communication flow" between programs throughout the state which would result from the center would be of significant value. (See Table III.)

Suggested Comprehensive Evaluation[9]

An "educational evaluation" for the hearing impaired is made up of a number of separate assessments. An assessment is necessary in each area in which the hearing impairment may affect the whole student. In no case is an audiological evaluation alone sufficient data on which to make more than a very tentative recommendation regarding the student's educational program.

The initial educational evaluation must consist of at least the following separate assessments:

- Medical Assessment
- Audiological Assessment
- Psychological Assessment

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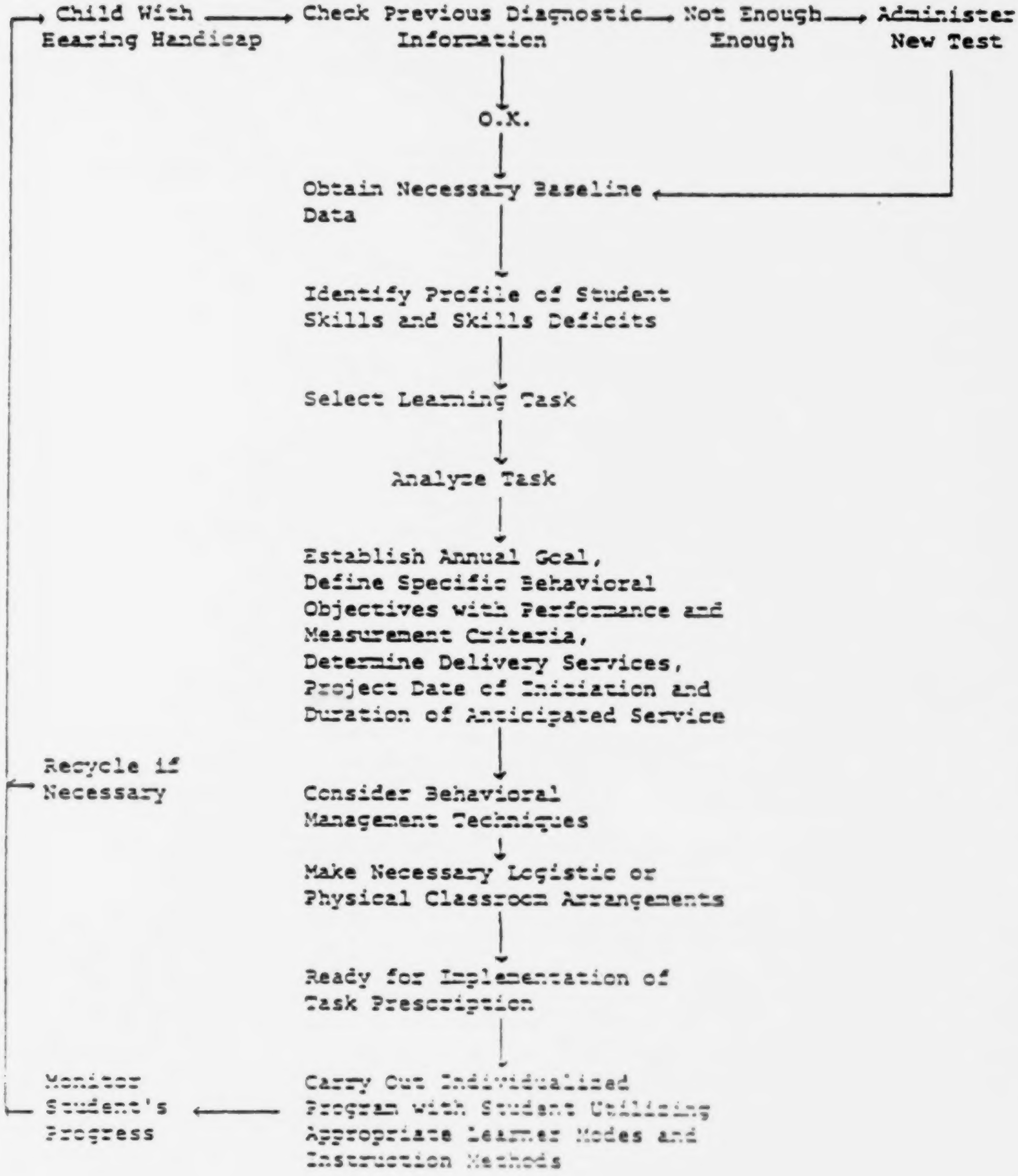
[9] Department procedures for implementing Rule 49 must be followed.

TABLE III

INDIVIDUALIZED INSTRUCTION FLOWCHART

Diagnose and Prescribe: Classroom Level


Child With Hearing Handicap
Check Previous Diagnostic Information
Not Enough
Administer New Test
O.K.
Obtain Necessary Baseline Data
Identify Profile of Student Skills and Skills Deficits
Select Learning Task
Analyze Task
Establish Annual Goal, Define Specific Behavioral Objectives with Performance and Measurement Criteria, Determine Delivery Services, Project Date of Initiation and Duration of Anticipated Service
Recycle if Necessary
Consider Behavioral Management Techniques
Make Necessary Logistic or Physical Classroom Arrangements
Ready for Implementation of Task Prescription
Carry Out Individualized Program with Student Utilizing Appropriate Learner Modes and Instruction Methods
Monitor Student's Progress

- Classroom Assessment
- Family and Social History

Medical Assessment. The following assessment must consist of at least the following four components:

- A comprehensive pediatric evaluation to determine if medical problems may exist that might interfere with the student's learning
- A specific otological examination to determine the type and possible cause of the hearing impairment
- An audiological examination, by an audiologist, to determine the degree and type of loss and to prescribe possible amplification
- An ophthalmological examination to determine if visual problems exist

Other special examinations such as a neurological evaluation may be recommended by a pediatrician.

Audiological Examination (Educational). A series of audiological examinations over a period of time administered by an educational audiologist is necessary to determine, with more accuracy than can be obtained from a single examination, the student's degree and type of loss. The relative significance of this information is its relation or bearing upon the behavior of the student with a hearing loss--or how the student functions in the classroom and at home with his or her hearing aid.

Psychological Examination. Psychological examination of the hearing impaired must be administered by a psychological examiner who is trained and experienced in working with the hearing impaired and who can communicate effectively with them. This is necessary since hearing loss, it has been found, may restrict:

- Reliable communication of directions
- Size of testing population (individual tests have been found more valid than group tests)
- Types of tests used (performance tests rather than verbal tests are generally more valid with the hearing impaired due to communication problems)
- Testing time (hearing impaired students usually need more time to complete a test than hearing students due to communication modes)

A list of intelligence and personality tests is shown beginning on page 73.

Classroom Assessment. The classroom assessment conducted by the student's teacher is a major factor in the recommendations for educational program and placement since it asesses the student's overall functional level. The classroom assessment should include, but is not limited to, the performance statements related to each of the following:

- The use of residual hearing, with and without a hearing aid
- The amount of usage of the hearing aid, if prescribed
- Demonstrated social skills
- Demonstrated cognitive skills (performance and competence)
- Demonstrated expressive and receptive communication skills
- Speech intelligibility
- Student's motivation
- Student's self-concept

However, if the child has not previously attended school, the Family and Social History should be used in lieu of the classroom assessment.

A list of screening and diagnostic instruments is shown beginning on page 83.

Family and Social History. The family and social history, compiled and kept current by a school social worker, should include:

- Student's developmental history
- Family history
- Information on how the student functions outside the classroom
- Student's previous school history, if any
- Pertinent information from parent(s), physician(s), other private or public agency personnel
- A statement regarding the effects of the above items on the student's educational program

Eligibility Criteria, Programming and Placement

Students identified as hearing impaired and found eligible for special education are those who have a hearing loss of such nature and severity as to require special education and services. The following educational evaluation recommendations shall be made regarding:

- Eligibility for special education
- Educational programming, taking into consideration child's strengths and weaknesses

- Supportive services which would benefit the child

Parent Conference. The principal shall arrange a conference with the student's parents to discuss and explain the results of the educational evaluation and recommendations. At this conference the Individual Education Program (IEP) shall be developed. (See chapter on Educational Evaluation and Implementation of IEP.) Department procedures for Rule 49, revised 1977, shall be followed.

Educational Re-Evaluation. A total educational re-evaluation should be made prior to entry into pre-primary, primary, upper elementary, intermediate and high school. Additional educational re-evaluations may be conducted as deemed necessary.

At any time that classroom observation and assessment of the student's current level of functioning and/or the results of the annual IEP conference indicate that the current classroom placement and/or services are not appropriate, or that further evaluative data is required to ensure the provision of an appropriate educational program, an educational re-evaluation, either total or partial, may be requested.

An educational re-evaluation may be requested by the student's parents, teacher or any other person(s) working with the student, in keeping with Rule 49. Such a request should be based on the student's current level of functioning.

Due Process. Throughout the identification, diagnosis and prescription procedure, due process must be followed to guard the rights of children and their parents, and confidentiality[10] of information must be maintained strictly.

Individualized Education Plan. Upon placement, the teacher(s) shall implement the Individualized Education Plan (IEP) which was developed at a conference with the parent(s), teacher(s), district personnel and, if appropriate, the student.

Continuing Classroom Assessment. Student progress in achieving the performance objectives must be documented by ongoing record keeping by the teacher.

Reprogramming is indicated:

- When the program objectives have been successfully achieved by the student, or

- When the program objectives have not been successfully achieved by the student, after repeated instruction

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[10] *Departmental Procedures for Implementation of Rule 53, Relating to the Protection of Educational Rights and Privacy of Students and Parents*, March 15, 1976.

Appendix F

HAWAII, DEPARTMENT OF EDUCATION

Programs and Services for the Emotionally Handicapped

Eligibility Criteria

Eligibility for special education programming for an emotional handicap may only be recommended once the comprehensive evaluation has been completed. It is apparent that normal students and adults may present some of the following characteristics during periods of stress; the crucial factors which distinguish an emotional handicap, however, rest in the determination of whether these behaviors vary significantly from the norm in frequency, intensity, duration, context, chronicity, or quantity (see Page EH 31).

A checklist is included on page EH 141 of this document which may be helpful as a handy reference for screening committees and diagnostic teams in determining whether a student may be eligible for special education due to an emotional handicap. The following criteria must be met for such a recommendation to be made:

A. Inclusion Factors: In order for special education eligibility to be granted for an emotional handicap, a student must present all of the following.

   1. Evidence that, after all supportive educational assistance, counseling services, parent conferences, and curricular adjustments available in the regular setting have been exhausted, a student persists in exhibiting an emotional disorder which interferes with the student's own learning;

   2. Evidence that an emotional disorder exists, as documented by observation, interview, and evaluation by a state-certified or licensed psychologist, or a licensed physician;

   3. Evidence that an emotional disorder is chronic, i.e., it has persisted for approximately one year;

4. Evidence that an emotional disorder disrupts a student's own academic progress to a significant degree.

B. Exclusion Factors: The presence of any of the following factors excludes a student from special education eligibility for an emotional handicap:

1. Evidence that the student's learning problem can be attributed primarily to sensory or other health factors, e.g., autism, hearing impairment, chronic asthma;

2. Evidence that the student's learning problem can be attributed primarily to cultural differences;

3. Evidence that the student's learning problem can be attributed primarily to mental retardation;

4. Evidence that the student's learning problem can be attributed primarily to a specific learning disability;

5. Evidence that the student's learning problem can be attributed primarily to an alienated condition, rather than an emotional disorder (see State criteria for "alienated" and "severely alienated" on page EH 23).

C. General Characteristics: In order for special education eligibility to be granted for an emotional handicap, a student must chronically exhibit one or more of the following general characteristics:

1. An inability to learn that cannot be explained by intellectual, sensory, nor health factors;

2. Inappropriate types of behavior or feelings under normal circumstances;

3. A general mood of unhappiness or depression;

4. A tendency to develop physical symptoms, pain or fears associated with personal or school problems;

5. An inability to develop or maintain satisfactory interpersonal relationships with peers and teachers.

D. Specific Characteristics: In order for special education eligibility to be granted for an emotional handicap, a student must chronically exhibit one or more of the following specific characteristics:

1. Avoidance or Aggressiveness in play: stays away from other children, always plays alone, leaves a group a children when an activity is going on; bites, hits, bullies, fights, instigates fights, starts vicious rumors;

2. Avoidance of Adults: stays away from adults, does not like to come to adults for attention, reticent;

3. Stereotypy: exhibits repetitive movements or repeats words over and over, cannot stop activity, perseverative;

4. Ritualistic or Unusual Behaviors: has a fixed way of doing certain activities in ways not usually seen in other children; has an obsessive desire to maintain sameness, unduly upset if routine is changed;

5. Resistance to Discipline or Directions: impertinent, defiant, resentful, destructive or negative, does not accept directions or training, disagreeable, hard to manage, destroys materials or toys deliberately;

6. Inappropriate Conduct Behavior: lying, stealing, excessive profanity, masturbation, sex play, undressing, cruelty, running away;

7. Unusual Language Content: bizarre, strange, fearful content; excessive jargon, fantasy; very odd or different talk with others or in stories;

8. Physical Complaints: talks of being sick, hurt or tired; lacks energy; malingering;

9. Echolalia: repeats another person's words without intending for the words to mean anything; failure to use speech for purposes of communication;

10. Self-Injurious Behavior: physically hurts self, takes bizarre risks, dangerous play; self-derogatory (says negative things about self);

11. Hypersensitivity: moody, irritable, sad, temperamental, easily depressed, unhappy, shows extreme emotions and feelings, overreacts;

12. Withdrawal: daydreams excessively, does not mingle freely with other children, submissive, obsequious, complies without much show of feeling (but may occasionally "blow-up"), excluded by other children; lacks friends, tends to be an "isolate", out of touch with reality;

13. Anxiety: wants constant reassurance, has nervous mannerisms fidgets, bites nails, chews pencils, etc,; never satisfied with own performance, tends not to finish tasks, compulsive, persistent, tends to over-study; preoccupied with disaster, accidents, death, disease, violence;

14. Self-Stimulation: persistent behaviors such as flicking fingers in front of eyes, shaking hands or head, rocking, twirling, etc,;

15. Attachment to Objects: extreme preoccupation with odd objects with no regard for their intended use;

16. Non-Responsive Behaviors: lacks eye contact, extreme aloofness, reticence, persistent tendency to turn away or look past other people, especially when spoken to;

17. Immature Behaviors: prefers only younger playmates, frequently cries, crawls around room, exhibits poor coordination;

18. Inappropriate Vocalizations: laughing, giggling, screaming, yelling, and crying for no apparent reason.

PROGRAMMING

Individualized Education Program (IEP)

Once the comprehensive evaluation has been completed, the diagnostic team meets in order to recommend the appropriate eligibility for the student evaluated on the basis of the data collected and interpreted. After the team agrees on a recommendation, the Diagnostic Summary and Recommended Services (DSRS) form is completed. This is a statement of the following:

a) Diagnostic Data/Functional Performance Level,
b) Areas Recommended for Special Education Services,
c) Recommended Related Services (when appropriate),

for the following categories:

I. Achievement Levels
II. Speech/Language Skills
III. Behavior Data
IV. Learning Style
V. Relevant Medical-Developmental Data
VI. Relevant Social-Family Information

Recommendations rendered here are wholly in response to the student's diagnostic profile which initially is the main contributor to the Individualized Education Program (IEP).

An IEP is a written statement of the student's annual goals and short-term instructional objectives based upon present levels of performance; program services and resources to be provided to meet the goals and objectives; dates for initiation and duration of program of services; criterion levels for the achievement of objectives; evaluation procedures; schedules for determining whether goals and objectives are achieved and extent of participation in regular education.

Parents and the student's themselves, when appropriate, are members of the IEP team along with the principal or appropriate designee, special education teacher, and others at the request of the parents or Department. Their input is crucial in the development of an appropriate plan based upon all assessed and stated needs. Meeting of the whole IEP team to evolve the plan ensures agreement, communication, and partnership between home and school.

Tennessee's

SERIOUS EMOTIONAL DISTURBANCE

DEFINITION

> *A child who exhibits more than one of the characteristics listed below over an extended period of time and to a marked degree, which adversely affects educational performance, is considered seriously emotionally disturbed.*

In order to avoid erroneous classification, the terms "extended period of time" and "marked degree" have been included in the definition of serious emotional disturbance. An "extended period of time" cannot be defined in terms of a specific number of weeks, months, or years, as the situation and the severity of the problem will have to be considered for each child referred. Similarly, a "marked degree" is intended to go far beyond the normal limits of behavior identified in the criteria. Both terms were included in the definition to focus on the severity and uniqueness of a child's behavior as compared to what would be expected within normal variance. The intent of the terms is to eliminate labeling a child inappropriately in cases when behavior is due to a situational stress. Documentation of the child's social, educational, and behavioral history obtained during the evaluation procedures, addresses this component of the definition.

"Adversely affects educational performance" pertains to the child's academic achievement, as well as his/her ability to cope with the educational environment.

CRITERIA FOR CERTIFICATION

A child must exhibit more than one of the following:

> *I. Inability to learn which cannot be explained primarily by intellectual, sensory, health, or specific learning disability factors.*
>
> *II. Inability to build or maintain satisfactory interpersonal relationships with peers, and teachers, and other significant persons.*

III. Inappropriate types of behavior or feelings under normal circumstances.

IV. General pervasive mood of unhappiness or depression.

V. Tendency to develop physical symptoms or fears associated with personal or school problems.

VI. Significantly deviant behavior characterized by extreme opposition and aggressiveness to severe depression and withdrawal.

VII. Perceptions of reality which appear distorted or unrealistic and which are not culturally based.

A child must exhibit at least two of the above criteria to be certified as seriously emotionally disturbed. As stated earlier, the parameters of "for an extended period" and "to a marked degree" apply to each criterion. The determination of whether the criteria have been met is very heavily reliant upon the examiner's clinical judgment. Documentation should be in writing and should incorporate information from the specified components of the evaluation procedures.

The type, degree, extent, and duration of any specific behavior undoubtedly is more important than any vague characteristic or condition. Because all humans present varying behavior, which at times, and in specific environments, can be viewed as deviant, the process of observing and analyzing the characteristic becomes the important factor in understanding and dealing with specific problems.

PRE-REFERRAL AND INFORMAL REFERRAL PROCEDURES

Pre-referral procedures should be followed prior to a formal referral for a comprehensive evaluation. The school support team, as described in Chapter Three, should collect and discuss a variety of already available information about the student to determine whether additional information is needed.

Available information should be obtained from the child's school record, as well as specific behavioral data documented by the referring teacher. Information from the school record should include the following: grades, group test scores, attendance reports, health records, sensory/speech screenings, and discipline reports. Information from the referring teacher should include information about the child's behavior, specific problems, interventions that have been tried, and the results of these interventions. In addition, the referring teacher should try to obtain any information from previous teachers which is relevant to the child's problem. Guidelines to help obtain this information are included below in the first evaluation procedure for identifying emotionally disturbed children.

JOHN WAIHEE
GOVERNOR

CHARLES T. TOGUCHI
SUPERINTENDENT

STATE OF HAWAII
DEPARTMENT OF EDUCATION
P. O. BOX 2360
HONOLULU, HAWAII 96804

OFFICE OF THE SUPERINTENDENT

Memorandum

December 9, 1987

TO: Assistant Superintendents, District Superintendents and Directors, Office of the Superintendent

FROM: Charles T. Toguchi Charles T. Toguchi
Superintendent

SUBJECT: Implementation Guidelines Relating to the Special Services Personnel Memorandum of Understanding

The Employer has entered into a Memorandum of Understanding with the Hawaii Government Employees Association BU 13 to modify the work year of special services personnel in the Department of Education (Copy Attached). In entering into this agreement, the Department has maintained its position that "the work of special services personnel, e.g. diagnostic evaluations, direct speech and hearing therapy, etc., must get done" even if the Employer should agree to alter the work year of special services personnel.

It was in this context, i.e. agreement that "the work must get done", the Employer and HGEA agreed to modify the work year of special services personnel. Based on this understanding, the Employer and HGEA further agreed that when work operations or the scheduling of work permit the modification of the work year of special services, then special services personnel should be scheduled to take advantage of the new modified work year then to the extent possible.

For the most part, the Memorandum of Understanding is self-explanatory. In the implementation of the Memorandum of Understanding, the following guidelines should be taken into consideration:

1. In some instances, administrative deadlines, court schedules, or other operational requirements that cannot be otherwise reasonably accommodated may require that work be performed by special special services personnnel during vacation periods as defined in the Memorandum. However, to the extent possible, the effort should be made to develop work schedules for special services personnel so that they may have time off during vacation periods.

2. In the development of rotational work schedules for vacation periods, the parties agreed that qualified volunteer employees should be sought. The rotational work schedule for vacation periods shall be made in a reasonable and equitable manner provided that the Employer may make work assignments based on the Employee's qualification, the work assignment, and qualification requirements associated with the work assignment. For example, there may be instances in which only very few members of a district's special services personnel possess the requisite qualification requirements to be able to perform certain special services work assignments in the district; therefore, it may become necessary to make a work assignment among these specially qualified individuals rather than equally considering all of the district's special services personnel to include those who may not possess the requisite qualification requirements. In the final analysis the Employer ultimately decides what personnel are needed to accomplish work objectives.

3. Since special services personnel will no longer accumulate vacation and be limited to observing the same vacation schedule as teachers, rotational work schedules for vacation periods should to the extent possible take this into consideration so that special services personnel may be afforded time off during vacation periods. Since these personnel are entitled to extra compensation when scheduled to perform work during vacation periods, it is prudent fiscal and operational management to schedule special services personnel to work for only that amount of time for which their services are necessary. For example, if special services personnel are not needed to provide services beyond a one-half day for each day of summer school, special service personnel should be scheduled for

only a one-half rather than full day of work.

4. Consideration should be given to the desires of special services personnel in regard to development of rotational work schedules for vacation periods which will permit them to schedule personal vacations particularly during the summer vacation. For example, where operations and scheduling permit it may be possible to develop rotational work schedules which provide for those special services personnel not desiring to work during summer vacation periods the opportunity not to be scheduled for work during summer vacation every so many years; however, the feasibility of such scheduling will be dictated by the district's operational requirements as well as the numbers of special personnel expressing the desire for such a schedule.

If you should have any questions regarding the Memorandum or these guidelines, please contact the Student Personnel Services Section, Office of Instructional Services at 373-2641 or the Collective Bargaining and Negotiations Section, Office of Personnel Services at 548-6374.

Attachment

cc: Office of Personnel Services
Student Personnel Services Section, Office of Instructional Services
District Educational Specialists, Special Services

CTT:jkn

MEMORANDUM OF UNDERSTANDING

This MEMORANDUM OF UNDERSTANDING is entered into this 8th day of December by and between the State of Hawaii, hereinafter called the Employer, and the Hawaii Government Employees' Association, Local 152, American Federation of State, County, and Municipal Employees, AFL-CIO hereinafter called the Union.

It is mutually agreed that effective September 1, 1987, the following modifications of the Unit 13 Agreement effective July 1, 1987 to June 30, 1989 shall be applicable to the special services personnel (budgeted through EDN 208) who are in bargaining unit 13 and who are hired for Department of Education positions as social workers, psychological examiners, educational evaluators, speech pathologists, and school psychologists, who shall hereinafter be called the Employees. Unless specifically modified herein, the provisions of the professional and scientific employee's BU 13 agreement shall be applicable.

I. Work Year, Holidays and Vacation

A. The Employees shall not be entitled to earn vacation leave credits in accordance with the provisions of Article 35 - Vacation Leave, Section A, Earning of Vacation Leave of the Unit 13 Agreement.

Employees with accrued vacation leave credits may request vacation leave only for regularly scheduled work days during the work year.

B. The Employees shall have the same work year, holidays and vacation (the day after Thanksgiving, Winter, Spring and Summer recess) as Bargaining Unit 5 members in the Department of Education provided that:

1. The work schedule for full-time Employees shall remain eight (8) hours a day and forty (40) hours a week for each normal work week, and

2. The work schedule for half-time Employees shall remain four (4) hours a day and twenty (20) hours a week for each normal work week.

C. The Employer shall retain the right to determine the numbers and types of Employees it needs to perform work during the vacation periods noted above and the duration of such work. In the process of deciding which Employees will be assigned to perform the work, the Employer shall take into consideration the following:

1. For summer vacation periods, the Employer shall to the extent possible identify manpower requirements for the summer vacation periods by April 30 of each year provided that adjustments may be made by the Employer to the manpower requirement projections after April 30 due to unanticipated operational requirements.

    a. To the extent possible, the notification of Employees of their summer vacation or work assignment shall be made no later than May 15 subject to changes in employee status designation based on additional manpower needs required to satisfy unanticipated operational requirements.

    b. The Employer shall consider the availability of qualified volunteer employees for work assignments with qualifications being determined by the Employer.

    c. To the extent possible, the rotation of work assignments among Employees based on Employees' qualifications, work assignments, and qualification requirements shall be observed. The Employer shall develop a rotation of work schedule after consultation with the Union and with due consideration being given the desires of Employees to work during summer vacation periods.

II. Overtime and Other Benefits

A. Article 24 - Overtime of the Unit 13 Agreement shall not be applicable to Employees. Employees shall not receive extra compensation for required occasional professional duties performed before or after the regular work day.

B. Article 26 - Meals; Article 27 - Standby Pay; Article 28 - Call Back Pay; Paragraph B of

Article 29 - Show-up time and Reporting Pay; of the Unit 13 Agreement shall not be applicable to Employees.

III. Sick Leave

A. Article 36 - Sick Leave of the Unit 13 Agreement, shall not be applicable to Employees.

B. Employees shall accrue sick leave credits in the same manner as Bargaining Unit 5 members provided that Employees shall take and be charged for sick leave in accordance with the provisions of the Sick Leave provision of the Unit 13 Agreement.

IV. Personal Leave With Pay

The Employer shall grant up to two (2) days personal leave per school year with pay. Such personal leave shall be granted only upon application for business that can only be transacted during the normal work hours of the employee and shall be charged to sick leave.

V. Funeral Leave

In lieu of Section C, Article 37, Funeral Leave of the Unit 13 Agreement and in recognition of the fact that the Employees do not earn vacation leave credits, the following shall be applicable:

> If the death or funeral occurs outside the State of Hawaii, the Employee shall be granted, upon request, a reasonable number of additional days of accumulated sick leave (not to exceed three (3) working days) or leave without pay to attend the funeral.

VI. Leave for Jury or Witness Duty

In lieu of Section C, Article 38, Leave for Jury or Witness Duty, of the Unit 13 Agreement and in recognition of the fact that the Employees do not earn vacation leave credits, the following shall be applicable:

> An Employee called to serve as a witness in a case which involves or arises out of his/her outside employment or personal business or private affairs shall not be entitled to leave of absences with pay as provided in paragraph (A) of Article 38 of the BU 13 Agreement,

provided that the Employee shall be entitled to take leave of absences without pay or personal leave (if available).

VII. Compensation

The Employees shall be employed under the provision of Chapter 76, H.R.S., and shall have their compensation fixed in accordance with Chapter 77, H.R.S., provided that:

A. The Employees shall receive compensation based on an Adjusted Prorated Monthly Rate of Pay prorated and payable over twelve (12) months. As defined herein, the Adjusted Prorated Monthly Rate of Pay shall be equal to the sum of the Employee's Prorated Monthly Rate of Pay plus a Special Services Adjustment plus a Standby Adjustment.

1. The Employee's Prorated Monthly Rate of Pay shall be determined by multiplying the Employee's Monthly Rate of Pay as determined by the salary schedule in the BU 13 Agreement by 10 months and dividing the product by 12 months.

2. The Employee's Special Services Adjustment shall be determined by multiplying the Employee's Prorated Monthly Rate of Pay by the differential factor of .125.

3. The Employee's Standby Adjustment shall be determined by multiplying the Employee's Prorated Monthly Rate of Pay by three (3) months and such product by .25. The resulting product shall then be divided by 10 months.

B. The Employee shall receive compensation based on a ten (10) month (September through June) work year when salaries are earned. Prorated compensation for the summer months of July and August shall be one-tenth (1/10) per month of the total salary earned during the September through June work year.

C. The Employees shall receive extra compensation for any work that they actually perform upon direction of proper authority on the day after Thanksgiving, during Winter, Spring and Summer recess, holidays and on weekends. Compensation for such additional work shall not be prorated.

The rate of extra compensation shall be the entry rate in the Employee's assigned salary range and classification and shall be paid on the basis of one-half (1/2) day's pay for up to four (4) hours of work per day and one (1) full days pay for more than four (4) hours work per day. The 8 Hour rate of pay as reflected on the Unit 13 Salary Schedule shall be used to compute such extra compensation.

D. The Employees shall receive compensation for holiday(s) or vacation days if they are on paid status for at least one of the five working days immediately preceding the holiday(s) or vacation (four of the five working days involved may be on a leave without pay status);

E. The closing month of the school year. Employees on a paid status up to and including May 15 shall receive full compensation for the month of June less any days absent without pay provided that they are on regular duty or on approved leave of absence for all days from May 16 to the closing day of school;

F. Exception: In the case of resignations or terminations, compensation shall not be received for vacation or holidays occurring subsequent to the effective date of resignation or termination.

G. The effective date for negotiated pay rate adjustments for Employees for proration purposes shall be no earlier than September 1. The rate of pay for extra compensation shall be based on the current Unit 13 salary schedule.

VIII. Grievances

Any complaint by Employees or the Union concerning the application and interpretation of this Memorandum of Understanding shall be subject to the Grievance Procedure contained in the Unit 13 Agreement in effect from July 1, 1987 through June 30, 1989, between the Employer and Union.

IN WITNESS WHEREOF the parties hereto have executed this MEMORANDUM OF UNDERSTANDING the day and year first above written.

STATE OF HAWAII

Lawrence Ishimi
Its Chief Negotiator

Its Director of Budget
and Finance

Its Director of Personnel
Services

City and County of Honolulu:
Loretta K. Fukuda (DNC)
Its Director of Civil
Service

County of Hawaii:
Its Director of Personnel
Services

County of Kauai:
Its Director of Personnel
Services

County of Maui:
Its Director of Civil
Service

HAWAII GOVERNMENT EMPLOYEES'
ASSOCIATION, AFSCME,
LOCAL 152, AFL-CIO

Russell Okata
Its Executive Director

PUBLISHED REPORTS OF THE LEGISLATIVE REFERENCE BUREAU

1983 1. A Department of Corrections for Hawaii: A Feasibility Study. 87 p.
● Hawaii Legislators' Handbook. Eighth Edition. 120 p. $1.00
1984 1. A Home Equity Conversion Program for Hawaii's Elderly Homeowners. 90 p.
● Hawaii Legislative Drafting Manual. Seventh Edition. 112 p.
● Hawaii Administrative Rules Drafting Manual. Second Edition. 260 p. (reprint)
1985 1. The Feasibility of Environmental Reorganization for Hawaii. 145 p. (out of print)
2. Third-Party Reimbursement of Clinical Social Workers. 61 p.
3. Statewide Standardized Testing Program of the Department of Education. 71 p.
4. The Flexible Working Hours Program for State Employees. 92 p.
1986 ● How to Research Constitutional, Legislative, and Statutory History in Hawaii. 91 p.
1. The Residential Landlord-Tenant Code. 113 p.
1987 1. Definition of "Independent Contractor" Under Hawaii's Labor Laws. 181 p.
2. Assuring Dignity in Long-Term Care for the Elderly. 92 p.
● Compendium of State Ocean and Marine Related Policies. 208 p. (out of print)
3. Convention Center Site Selection Study. 249 p.
4. Bus Transportation for Public School Students on Oahu. 85 p.
5. Sponsorship of State Commemorative Medallions: A Feasibility Study for Hawaii. 93 p.
6. Ownership Patterns of Land Beneath Hawaii's Condominiums and Cooperative Housing Projects. 92 p.
7. Two Land Recording Systems. 58 p. (out of print)
8. Health Care Benefit Costs for Retired Public Employees: Issues and Funding Options. 58 p.
9. The Sugar Industry in Hawaii: An Action Plan. 69 p.
1988 1. Ohana Zoning: A Five Year Review. 108 p.
2. State Funding for the Bishop Museum. 118 p.
3. Utility-Financing of Energy Conservation: A Short-Term Approach to Hawaii's Oil Dependency. 106 p.
4. Small Business: Current Problems and Opportunities. 140 p.
● Public Use and Access in the Diamond Head Crater. 48 p.
5. Sanitary Landfills in Hawaii (with a case study of Puu Palailai). 108 p.
● Extent of Tort Liability Among Nonprofit Sports Organizations in Hawaii. 81 p.
● An Examination of Alleged Inadequacies in Pet Lodges. 18 p.
6. Trash: A Commentary on a Proposal. 126 p.
7. Access to Confidential Records in a State Archives. 53 p.
● Hawaii Administrative Rules Directory. 227 p. (reprint)
8. A Comparative Study of the Utilization and Effects of Commercial Leases and Operating Licenses in Hawaii. 116 p.
9. Pharmaceutical Assistance for the Elderly. 46 p.
10. Employer-Assisted Dependent Care. 72 p.
11. Feasibility of Establishing a State Veterans Facility for Veterans as a Distinct Group of the Elderly. 153 p.
1989 ● Guide to Government in Hawaii. Ninth Edition. 194 p. $3.00
1. Intrafamily Child Sexual Abuse: Exploring Sentencing Alternatives To Incarceration. 75 p.
2. Access To Property Insurance In Areas Susceptible To Natural Disasters. 56 p.
3. Parental or Family Leave in Hawaii. 126 p.
4. Condominium Governance — An Examination of Some Issues. 119 p.
5. Collateralization Requirements for State Deposits. 82 p.